

Joseph Papin

vs.

University of Mississippi Medical

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Deposition of:

Pat Whitlock

December 02, 2020

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Vol 1

PHIPPS REPORTING

*Raising the Bar!*

Pat Whitlock  
December 02, 2020

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
3                   JACKSON DIVISION

4           JOSEPH PAPIN

PLAINTIFF

5           V.

CASE NO. 3:17-CV-763-CWR-FKB

6  
7           UNIVERSITY OF MISSISSIPPI  
8           MEDICAL CENTER; DR.  
9           LOUANN WOODWARD, IN HER  
10          OFFICIAL CAPACITY; AND  
11          DR. T. MARK EARL, IN HIS  
12          INDIVIDUAL CAPACITY

DEFENDANTS

13  
14                   DEPOSITION OF PAT WHITLOCK

15           Taken at the instance of the Plaintiff at Via ZOOM  
16                                   on Tuesday,  
17                                   December 2, 2020,  
18                                   beginning at 9:00 a.m.

19  
20  
21  
22                   REPORTED BY:

23  
24                   DAWN DILLARD, CCR #1763  
25

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2

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1 PAT WHITLOCK,

2 having been first duly sworn, was examined and  
3 testified as follows:

4 EXAMINATION BY MR. SCHMITZ:

5 Q. Ms. Whitlock, can you state your full  
6 legal name for the record please?

7 A. Patricia Rosenthal Whitlock.

8 Q. And have you ever had your deposition  
9 taken before?

10 A. I have.

11 Q. Okay. When were you last deposed?

12 A. Not here, but it's been several years  
13 ago with a different organization.

14 Q. And what was that deposition regarding?

15 A. I served as HR director for an  
16 organization where an employee's contract was  
17 severed and he filed claims to return to that  
18 place of employment.

19 Q. Okay. Any other depositions?

20 A. Yes.

21 Q. Okay. What other depositions?

22 A. There was another situation many, many  
23 years ago where the company that I worked for had  
24 programs through which employees were retained or  
25 separated and there was another situation where an

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1 employee's employment was not retained.

2 Q. And was that employee alleging  
3 discrimination or retaliation or something along  
4 those lines?

5 A. Yes.

6 Q. In the first case that you mentioned was  
7 that also a discrimination retaliation?

8 A. Yes.

9 Q. Any other depositions that you've had?

10 A. No, those are the only ones.

11 Q. Well, I'm going to go over the ground  
12 rules really quickly since it's been a couple of  
13 years. So today, you know, you and I will be  
14 conversing back and forth, please try to make your  
15 answers yes or no or some type of audible answer.  
16 Shaking your head yes or no or anything like that,  
17 uh-huhs (affirmative) and huh-uhs (negative) and  
18 all that kind of stuff make it difficult for the  
19 court reporter to pick that up, so if we could  
20 please try to keep our answers audible and clear  
21 so that she can type out the record easily.

22 If I ask you a question that you don't  
23 understand, please do not hesitate to ask me to  
24 rephrase it. If you need a break please let me  
25 know, the only thing I ask is that if I have a

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1 question pending when you need a break that we  
2 finish that question, then you can go on your  
3 break for bathrooms or whatever reason.

4 I'm going to assume if you provide an  
5 answer to my question that you fully understand  
6 the question.

7 And what is your date of birth?

8 A. 10/2/53.

9 Q. And what is your current address?

10 A. 102 Quail Run Drive, Madison,  
11 Mississippi.

12 Q. And have you ever testified at trial  
13 before?

14 A. No.

15 Q. Okay. Have you ever been convicted of a  
16 crime?

17 A. No.

18 Q. Have you ever been arrested?

19 A. No.

20 Q. Are you under the influence of any drugs  
21 of any kind today or do you have any medical  
22 conditions which may prevent you from accurately  
23 or truthfully answering my questions today?

24 A. No.

25 Q. What is your highest level of education?



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1 A. I have a master's degree.

2 Q. In what?

3 A. Sociology.

4 Q. And what did you get your undergraduate  
5 degree in?

6 A. Sociology.

7 Q. Sociology, okay.

8 A. Yes.

9 Q. Do you hold any other certificates or  
10 professional credentials?

11 A. I have certification as a professional  
12 in human resources.

13 Q. Okay. Anything else?

14 A. No.

15 Q. Can you please tell me what you did  
16 other than -- I don't want to know the substance  
17 of your conversations potentially with Tommy or  
18 anything like that because that would be protected  
19 by attorney/client privilege, but can you tell me  
20 what you did to prepare for this deposition in  
21 terms of which documents you reviewed?

22 A. I reviewed the transcript of my  
23 interview with Dr. Papin and I also reviewed  
24 various e-mails containing back and forth  
25 conversations regarding his situation.

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1           Q.    Okay. Besides your counsel did you  
2   speak with anybody else in preparation for your  
3   deposition today?

4           A.    No.

5           Q.    Have you reviewed any of the expert  
6   reports which have been exchanged in this case?

7           A.    I'm not familiar with what you're  
8   referring to.

9           Q.    There's expert witnesses that have  
10  rendered opinions in this case --

11          A.    No, I have not.

12          Q.    Okay. Have you reviewed any other types  
13  of abstracts or summaries that were prepared by  
14  anybody in this case to prepare you for this  
15  deposition today?

16          A.    No.

17          Q.    Have you reviewed the appeals transcript  
18  from Joseph Papin's appeal of his termination?

19          A.    No.

20          Q.    So the only transcript you reviewed  
21  would be the transcript from your interview with  
22  Joseph Papin on January 27; is that correct?

23          A.    Yes.

24          Q.    Okay. And what is your position at  
25  UMMC?

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1           A.    Human Resource Business Partner.

2           Q.    And what does that mean? What are your  
3 duties and responsibilities?

4           A.    I serve as a consultant to specified  
5 departments. It is a role that advises them,  
6 helps them make strategies, anything pertaining to  
7 their employees, any kind of situations with  
8 employees, questions that they may have about  
9 processes, it is my responsibility to listen, to  
10 guide, and provide advice.

11          Q.    And which departments do you work with  
12 at UMMC?

13          A.    There are several that I am responsible  
14 for. Those include -- I'll tell you in just a  
15 second. It's quite a few of them.

16          Q.    Not a problem, take your time.

17          A.    Pathology, dermatology, department of  
18 medicine, which has 26 divisions.

19          Q.    Okay.

20          A.    Physiology, academic affairs, and that's  
21 pretty much the sum of it.

22          Q.    Would your -- is academic affairs, that  
23 would be considered sort of how you got involved  
24 with this matter here, that would have been in --

25          A.    No, that is -- it was the department of

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1 medicine, but also the graduate medical education  
2 office.

3 Q. Okay. So you also help provide advice  
4 to the graduate medical education office?

5 A. Yes.

6 Q. Okay. How long have you been with UMMC?

7 A. Seven years.

8 Q. As an HR professional at UMMC what are  
9 your interactions with residents, if at all, on  
10 either a day to day or weekly, monthly basis?

11 A. Only if they have questions regarding  
12 benefits or compensation sometimes they will  
13 contact me, otherwise I have very little  
14 interaction.

15 Q. Or also in disciplinary type of matters  
16 as well, you typically get involved?

17 A. With the supervisors or someone in the  
18 department, but not necessarily with the employee.

19 Q. So it's only if the program director  
20 first would reach out to you then you would get  
21 involved you're not actually going to be getting  
22 involved in sort of the day to day --

23 A. Yes.

24 Q. (By Mr. Schmitz) Okay.

25 MR. WHITFIELD: Okay. I know you're

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1           eager, let him finish his question.

2           THE WITNESS: Okay.

3           MR. WHITFIELD: So you hear the whole  
4           question before you answer. And plus the  
5           court reporter will be a lot nicer if we're  
6           not talking over each other.

7           MR. SCHMITZ: And real quick, Tommy, is  
8           there anybody else in the room with you guys  
9           or is it just you two?

10          MR. WHITFIELD: Just us.

11          MR. SCHMITZ: Okay.

12          Q.    (By Mr. Schmitz) Do you recall Joseph  
13   Papin?

14          A.    Yes.

15          Q.    And at UMMC when did you first hear  
16   about Dr. Papin?

17          A.    Mid January 2017.

18          Q.    Is that when Dr. Earl reached out to  
19   you.

20          A.    Dr. Barr.

21          Q.    Dr. Barr with Dr. Earl?

22          A.    Yes.

23          Q.    So tell me about your involvement in  
24   other resident discipline cases not including this  
25   one?

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1           A.    If there is a concern brought to HR in a  
2   department that I provide support to I will then  
3   follow whatever information has been provided.  
4   Sometimes the department will provide concerns  
5   that I will need to follow-up on or sometimes a  
6   concern may come from an employee. It just  
7   depends on how the information gets to HR.

8           Q.    Okay. And when you say follow-up on, so  
9   a concern is typically brought to you regarding a  
10   resident that my require discipline and then you  
11   would conduct your own investigation into that  
12   concern and make recommendations based on that?

13          A.    Yes.

14          Q.    What are the interactions between let's  
15   say a program like the general surgery program at  
16   UMMC and human resources?

17          A.    Would you clarify your question?

18          Q.    In terms of specifically with respect to  
19   that department, what type of things do you do in  
20   terms of advising the general surgery department  
21   at UMMC?

22          A.    General surgery is a part of the  
23   department of medicine.

24          Q.    Okay.

25          A.    And typically the concerns -- any kind

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1 of concerns would come -- there's a hierarchy  
2 within the department, so it would depend on what  
3 the concern is, what the question is, how it would  
4 come to HR. Typically with the general surgery  
5 department because those -- the program director  
6 is considered a faculty staff person, many times  
7 that direct interaction would not be with the HR  
8 business partner it would be with the supervisor  
9 of the HR business partner group. And then if it  
10 were deemed that whatever the concern is needed to  
11 be further addressed or an investigation done,  
12 that would be assigned to the HR business partner.

13 **Q. And who would be the supervisor HR**  
14 **partner for the general surgery program at UMMC?**

15 **A.** It would be the same person who  
16 supervises all of the HR business partners.  
17 Currently that position is vacant.

18 **Q. Who was it back in 2017?**

19 **A.** It was Molly Brasfield.

20 **Q. Molly Brasfield, okay. With respect to**  
21 **resident discipline, would it be fair to say that**  
22 **basically the program director and program kind of**  
23 **calls the shots with respect to discipline and**  
24 **then they would come to HR more or less just to**  
25 **confirm their actions and make sure all the Ts are**

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1       **crossed and Is are dotted?**

2                   MR. WHITFIELD: Object to the form.

3           **Q.     (By Mr. Schmitz) You can answer.**

4           A.     Discipline at UMMC is a four-step  
5 process and the first step would be informal. The  
6 second step would be a verbal counseling. The  
7 third step would be a written warning. All  
8 departments are at their discretion to administer  
9 those. Anything that falls outside that must come  
10 to HR for consultation and ultimate approval.

11          **Q.     What did you say the third step was?**

12          A.     The written. The first step is  
13 informal.

14          **Q.     Then you said it was written, and then**  
15 **you said third was something else?**

16          A.     Verbal. The first step is an informal  
17 counseling.

18          **Q.     Okay.**

19          A.     The second stop where the process  
20 actually begins would be called a verbal  
21 counseling although it is documented. The next  
22 step would be written.

23          **Q.     And then what's the fourth step?**

24          A.     Final written. And the last one would  
25 be termination.



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1           Q.    Tell me about the procedures at UMMC  
2   when an allegation of sexual harassment comes to  
3   HR from an employee of UMMC, what are the typical  
4   processes?

5           A.    The typical process would be for --

6                   MR. WHITFIELD: I'm going to make an  
7   objection. She's not our 30(b)(6) on these  
8   procedures and all that. She can answer to  
9   her knowledge but not as to the institution's  
10   knowledge.

11          Q.    (By Mr. Schmitz) Sure. Just to the best  
12   of your knowledge?

13          A.    The process would -- it would depend on  
14   to what location the allegations were made. If it  
15   were an employee it could come to the HR business  
16   partner or it could go directly to our office of  
17   employee relations.

18          Q.    And once the report comes into either of  
19   those offices then what takes place?

20          A.    There would be an investigation  
21   including interviews of the pertinent participants  
22   or whomever was engaged in it.

23          Q.    Okay. And then after the interviews  
24   what would take place?

25          A.    Recommendations would be made both to

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1 the department and to employee relations.

2 Q. Recommendations with respect to how to  
3 just deal with it with the scenario or what?

4 A. Recommendations as to resolution of the  
5 situation.

6 Q. Okay. And what would the typical  
7 resolutions look like in that type of case?

8 A. It would depend on the case.

9 Q. Okay. Sometimes termination would be on  
10 the menu, correct?

11 A. Yes.

12 Q. Would separating the employees be on --  
13 potentially on the menu?

14 A. Please clarify what you mean by  
15 separating.

16 Q. You know, put them in different shifts  
17 so that they don't have to interact with each  
18 other anymore or, you know, just making it so  
19 that, you know, I don't know, at UMMC it's a large  
20 hospital, right, you could put somebody on the  
21 other end of the hospital away from somebody else  
22 who was allegedly bothering somebody and then they  
23 don't have to see each other anymore?

24 A. I've not been involved in a case of that  
25 nature.

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1 Q. Okay. Have you ever been involved in a  
2 case where an employee was accused of sexual  
3 harassment and that employee was suspended but  
4 then allowed to come back?

5 A. No.

6 Q. So termination is usually the route to  
7 go in that type of situation?

8 MR. WHITFIELD: Object to form, you can  
9 answer.

10 THE WITNESS: In the situation that I  
11 have been involved in.

12 Q. (By Mr. Schmitz) Okay. When did you  
13 first learn that Dr. Papin allegedly harassed and  
14 made another resident feel uncomfortable?

15 MR. WHITFIELD: Object to the form of  
16 the question.

17 THE WITNESS: Anything that I learned  
18 regarding Dr. Papin would have been in  
19 mid-January 2017.

20 Q. (By Mr. Schmitz) Are you aware that  
21 Ashley Griffin, another resident, made UMMC aware of  
22 this on January 9, 2017?

23 A. I am not.

24 Q. Do you have any idea why there was no  
25 investigation completed with respect to the

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1     **alleged incident of harassment involving another**  
2     **resident and Dr. Papin?**

3             MR. WHITFIELD: Object to the form.

4             THE WITNESS: Although residents are  
5     employees, because of the educational  
6     component there are two tracks for any  
7     interaction when there are concerns regarding  
8     their performance or behavior. The program  
9     director, the graduate medical office would  
10    be one track that would initially be  
11    responsible for any interaction. Once they  
12    had done their due diligence, if they thought  
13    it prudent then it would come to HR.

14            Q.     **(By Mr. Schmitz) Did you ever or did**  
15    **anyone else in HR ever conduct any interviews**  
16    **regarding alleged sexual harassment by Dr. Papin?**

17            A.     I don't know, but I did not.

18            Q.     **Okay. Do you have any knowledge of the**  
19    **ACGME requirements on residency programs?**

20            A.     I do not.

21            Q.     **Have you ever received any type of**  
22    **training or anything like that with respect to**  
23    **what the ACGME requires from residency programs?**

24            A.     I have not. The graduate medical office  
25    handles -- the graduate medical education office

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1 handles all of that.

2 Q. So HR would have no involvement in any  
3 type of whether someone is meeting ACGME  
4 requirements or anything like that?

5 A. No.

6 Q. Have you ever been involved in the  
7 termination of UMMC employees prior to 2017?

8 A. Yes.

9 Q. Did any of those cases involve house  
10 officers?

11 A. Yes.

12 Q. Can you tell me about those cases?

13 A. There was one case where there were  
14 allegations of sexual harassment as well as the  
15 offering of illegal drugs. And because that  
16 person was a house officer and others similarly  
17 situated were involved, it was handled as a Title  
18 IX case.

19 Q. And what was the result of that case?

20 A. I did not have involvement in it beyond  
21 the initial interviews.

22 Q. HR didn't make any recommendations with  
23 respect to that resident whether that resident be  
24 terminated or not?

25 A. The recommendation from the department

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1 was that the person be terminated and as the HR  
2 business partner involved in a part of those  
3 interviews that recommendation was supported and  
4 then submitted to the office of employee  
5 relations.

6 Q. And in that case you conducted  
7 interviews of the relevant persons that were  
8 involved including those who made the allegations  
9 against this resident?

10 A. Yes.

11 Q. About how many interviews did you  
12 actually conduct in that case?

13 A. I don't recall the exact number, but I  
14 know there were more than five.

15 Q. Okay. Any other terminations involving  
16 house officers prior to 2017?

17 A. I don't know.

18 Q. What about since 2017?

19 A. I don't know. If I am not directly  
20 involved in them I would not have knowledge.

21 Q. Are there a lot of cases where HR is not  
22 involved in the termination of a house officer?

23 A. I don't know.

24 Q. So to your -- the best of your  
25 recollection, the only other house officer

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1     **termination that you've been involved in was the**  
2     **one that you just mentioned before?**

3           A.     Yes.

4           Q.     Have you ever been involved in any type  
5     of discipline of house officers not including  
6     termination, other types of discipline on house  
7     officers?

8           A.     Yes.

9           Q.     What are those cases?

10          A.     Several years ago after our electronic  
11     records system was implemented, the office of  
12     compliance did reviews to determine if anyone had  
13     accessed medical records without a need to know  
14     and as they discovered that they conducted the  
15     interviews, they determined the discipline, and  
16     then that information was forwarded to HR to  
17     actually present the discipline to the employees.

18          Q.     And several residents were disciplined  
19     as a result of that policy?

20          A.     They were.

21          Q.     Okay. What was the discipline that was  
22     given to those residents?

23          A.     It was a 10 day suspension without pay  
24     and a final written warning.

25          Q.     Did anyone to the best of your knowledge

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1 get terminated because of that?

2 A. Not to my knowledge.

3 Q. Do you or did you have the sole power to  
4 terminate a house officer in 2017?

5 A. I do not have power to terminate anyone.

6 Q. In this case with Dr. Papin what  
7 policies did you have to insure were being  
8 complied with during his termination process at  
9 UMMC?

10 A. Would you repeat the question?

11 Q. In this case what policies and  
12 procedures were you making sure were being  
13 complied with during Dr. Papin's termination  
14 process?

15 A. Based on the information that the  
16 department provided I would have reviewed our  
17 employee staff -- faculty staff handbook to  
18 determine what kind of infractions were present.  
19 They would have included lack of professionalism,  
20 and I would have to review -- I would have to  
21 actually look at the policy to give you all of  
22 those but they were reviewed prior to the  
23 concurrence in the department's request.

24 Q. Okay. Is there anything -- any other  
25 policies and procedures, grievance procedures,



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1 anything like that that would need to be complied  
2 with or remediation procedures?

3 A. Not from an HR standpoint, just  
4 basically whatever those policies were that do  
5 guide the performance and behavior of employees.

6 Q. Okay. Whose decision was it to  
7 terminate Dr. Papin?

8 A. The final authority rested with the --

9 MR. WHITFIELD: I'm going to object to  
10 the form, but you can answer to the best of  
11 your knowledge.

12 THE WITNESS: To the best of my  
13 knowledge the final authority rested with the  
14 office of employee relations in human  
15 resources.

16 Q. (By Mr. Schmitz) So the program director  
17 would not have had the authority to terminate  
18 Dr. Papin?

19 A. If they had been using the processes in  
20 the graduate medical education office, they would  
21 have had the authority to dismiss him from the  
22 program, but because a house officer is considered  
23 an employee as well as a trainee, it depends on  
24 which approach is being requested. The department  
25 had requested termination as an employee and that

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1 is how HR became involved.

2 Q. Okay. So but someone's employment is  
3 completely dependent -- when you're a resident  
4 your employment is completely dependent on being  
5 still part of that graduate medical education  
6 program, correct?

7 MR. WHITFIELD: Object to the form.

8 THE WITNESS: At UMMC because house  
9 officers are in a training program there can  
10 be occasions where they are dismissed from  
11 the program. And as a result of that they  
12 are no longer employees, but in terms of  
13 their employment status it is not a  
14 termination from an HR standpoint.

15 Q. (By Mr. Schmitz) Right. Right, but  
16 that's really just a form though, someone's -- if  
17 you're terminated from a program and you're a  
18 resident, you're no longer working at UMMC,  
19 physically working at UMMC anymore, correct?

20 A. Yes.

21 Q. Okay. I get the -- so just basically  
22 there's just a distinction within UMMC of the  
23 program being part of a program and then the  
24 actual formal employment relationship that  
25 residents have, so they kind of have like a dual

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1 employment, right, you know, where they have to be  
2 both part of the program as well as employees of  
3 UMMC to continue working at UMMC, correct?

4 A. Yes.

5 Q. Has there ever been a situation where  
6 someone has been terminated from a program but  
7 then continued to work at -- where a resident --  
8 let me rephrase.

9 Has there ever been a situation where a  
10 resident has been terminated from a program but  
11 continued employment with UMMC?

12 A. I don't know.

13 Q. Do you recall any of those situations?

14 A. I don't know.

15 Q. Is it that you don't know or you're just  
16 not aware of any situations?

17 A. I'm not aware. I do know that there is  
18 a possibility that if someone were to seek  
19 employment and be selected for that role they  
20 could be hired, but I have not had any kind of  
21 direct involvement with it.

22 Q. Okay. What do HR policies and  
23 procedures require before a house officer can be  
24 terminated?

25 A. The policies and procedures for the

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1 house officers would be no different from any  
2 other employee in terms of employment. And,  
3 again, it would depend on what those policies are  
4 contained in the faculty staff handbook.

5 Q. Are there certain steps or something in  
6 terms of resident though that are specific to  
7 residents that need to be followed at least to  
8 your knowledge from an HR perspective?

9 A. No different from any other employee.

10 Q. Do all employees at UMMC have the right  
11 to appeal their termination if they are  
12 terminated?

13 A. I don't know.

14 Q. Well, do the HR policies at UMMC dictate  
15 who gets to appeal their termination or not?

16 A. There are some actions listed in the  
17 faculty staff handbook that are grievable.

18 Q. Okay. So depending on the situation  
19 what policies could apply would be different to  
20 each employee, correct?

21 A. I don't know.

22 Q. Other than the faculty staff handbook  
23 were there any other policies or procedures  
24 considered in terminating Dr. Papin's employment?

25 A. Not to my knowledge.

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1 Q. UMMC has a contract with its residents;  
2 is that correct?

3 A. Yes.

4 Q. Was Dr. Papin's contract and the  
5 language within his contract considered prior to  
6 terminating his employment?

7 A. I would have to see the contract but I'm  
8 not sure.

9 Q. Did you review his contract prior to --

10 A. Have I seen it? Yes.

11 Q. And you don't recall whether it was part  
12 of your decision to recommend his termination or  
13 not?

14 A. I do know it was not a part of the  
15 decision.

16 Q. Okay. Would you characterize the  
17 process involved in terminating Dr. Papin as being  
18 fair based on your personal knowledge and  
19 involvement in the process?

20 MR. WHITFIELD: Object to the form.

21 THE WITNESS: The process was followed  
22 appropriately based on what the practices and  
23 the policies were at UMMC.

24 Q. (By Mr. Schmitz) So you would  
25 characterize the process as used in terminating

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1 Dr. Papin's employment at UMMC as complying with all  
2 applicable policies and procedures at UMMC?

3 A. Yes.

4 Q. And those policies and procedures would  
5 be the faculty staff handbook and that's it?

6 A. They are outlined in the faculty staff  
7 handbook, yes.

8 Q. Do you have the ability to evaluate the  
9 performance of medical residents?

10 A. No.

11 Q. What investigation did HR undertake  
12 during the termination process for Dr. Papin?

13 A. There was a review of the information,  
14 the documentation that was provided from the  
15 department, and there was an interview with  
16 Dr. Papin.

17 Q. Other than yourself who was else was  
18 involved in the investigation of Dr. Papin's  
19 termination?

20 A. There was a second person now deceased  
21 who was in the interview when Dr. Papin was  
22 recorded.

23 Q. Were there any other members of HR who  
24 were involved in the process of terminating  
25 Dr. Papin?

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1 MR. WHITFIELD: Object to the form.

2 THE WITNESS: The person that I just  
3 referred to sat in on the interview. The  
4 determination for the termination was made by  
5 the department of human resources employee  
6 relations.

7 Q. (By Mr. Schmitz) And that's your  
8 department though, correct?

9 A. My -- the overall umbrella is HR, but  
10 employee relations is a different division.

11 Q. That would be -- oh, that's Molly  
12 Brasfield?

13 A. That would be Cecilia Bass.

14 Q. Oh, Cecilia Bass, okay, thank you.

15 A. Yes.

16 Q. Do you or anyone else conduct in person  
17 interviews of anyone who made allegations of any  
18 type of misconduct or malfeasance against  
19 Dr. Papin?

20 A. I did not. I don't know if anyone else  
21 did.

22 Q. Do you have any idea why that was not  
23 done?

24 A. The information that was provided with  
25 the department was quite conclusive and in

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1 Dr. Papin's interview with me he did not deny that  
2 those things had occurred.

3 Q. Okay. So in your opinion because  
4 Dr. Papin had not denied things -- denied the  
5 thing that occurred there was not enough reason  
6 for you to go out and speak to the people who were  
7 making allegations against Dr. Papin?

8 A. There was excessive documentation.  
9 There was incidents of feedback provided to  
10 Dr. Papin. There was a document that Dr. Papin  
11 signed acknowledging what was listed in the  
12 document that he received, and it felt that it was  
13 conclusive enough to support what the department  
14 was requesting based on the documentation they  
15 provided.

16 Q. And the document you're talking about  
17 that Dr. Papin signed, that would have been the  
18 remediation plan that Dr. Earl gave to him?

19 A. I'm not sure if that's what it was  
20 called but it was a document presented by  
21 Dr. Earl.

22 Q. Okay. Well, I guess we'll go through  
23 that later. Okay. I'm going to show you an  
24 exhibit now.

25 MR. WHITFIELD: You doing the download



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1 or you doing the share screen.

2 MR. SCHMITZ: I do the share deal.

3 MR. WHITFIELD: Okay.

4 (A brief recess was taken.)

5 (Exhibit 1 marked for identification.)

6 Q. (By Mr. Schmitz) Just let me know  
7 whenever you're done reviewing.

8 A. I see the document.

9 MR. WHITFIELD: There's multiple --  
10 which page do you want her to look at or all  
11 of it?

12 MR. SCHMITZ: Just, you know, if you  
13 want -- yeah, just look at all of them and  
14 then I'm going to -- I'll start from the top  
15 and -- well, no, I'm probably going to  
16 actually start from the bottom. I'm going to  
17 be all over the place on this one a little  
18 bit, so.

19 A. Okay.

20 Q. (By Mr. Schmitz) Just take a minute to  
21 review it and then we'll talk.

22 A. I have reviewed.

23 Q. Okay. All right. I wanted to -- on the  
24 first page there's an e-mail from Pamela Greenwood  
25 dated Wednesday, February 15 at 10:22 a.m. Do you

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1     **see that?**

2           A.     Yes.

3           Q.     And that e-mail was sent to you. And it  
4     starts, good morning, Pat, after reviewing  
5     documentation submitted additional information is  
6     needed.

7                     She asked you several questions so I'm  
8     going to go through those questions. She asked,  
9     is there any supporting documentation of the  
10    feedback/coaching sessions that Dr. Earl  
11    referenced.

12                    Was there any additional supporting  
13    documentation regarding the feedback and coaching  
14    sessions that Dr. Earl referenced or stated that  
15    he had done with Dr. Papin?

16           A.     In some of the information that Dr. Earl  
17    provided it did indicate when he had spoken with  
18    Dr. Papin.

19           Q.     Okay. But was there any contemporaneous  
20    e-mails or feedback that were provided to  
21    Dr. Papin in writing from Dr. Earl that you can  
22    recall other than his evaluations?

23           A.     There were e-mails that referenced he  
24    had spoken with Dr. Papin.

25           Q.     Okay. Do you recall seeing anything

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1     that Dr. Earl had sent to Dr. Papin prior to  
2     January 10, 2017?

3             A.     I do not.

4             Q.     It states -- the next question is, is  
5     there a complete signed academic remediation  
6     protocol checklist showing all tasks have been  
7     completed.

8             A.     We discussed -- we had a meeting with  
9     Ms. Greenwood and Ms. Bass where it was determined  
10    that many of the questions that she was asking  
11    were more related to the academic environment  
12    rather than the HR environment, and so it would  
13    not have been relevant to the specific  
14    investigation and recommendation for termination  
15    based on the employee status.

16            Q.     When you say based on the employee  
17    status, what does that mean?

18            A.     Because the termination was being  
19    requested of Dr. Papin's employment, many of the  
20    questions that Ms. Greenwood was asking would have  
21    been more relevant to his status as a house  
22    officer in a training program.

23            Q.     Yes, but isn't -- his employment had  
24    already been decided that he was not going to be  
25    part of the academic program; is that correct?

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1           A.    I don't know if it had been formally  
2   initiated.

3           Q.    Well, the reason why you had sent all  
4   this stuff there was a request for termination,  
5   the subject line of the e-mail, that request for  
6   termination came from Dr. Barr and Dr. Earl, isn't  
7   that correct?

8           A.    It is.  At UMMC there are two distinct  
9   tracks, the academic component and then the  
10   employee component.  The questions that  
11   Ms. Greenwood raised would have been more relevant  
12   to the academic component rather than the employee  
13   component to which the recommendation for  
14   termination was made.

15          Q.    Doesn't that distinction -- I get that  
16   there is a formal distinction but, again, as we  
17   discussed before, if the academic program decides  
18   to terminate a resident or wants to terminate a  
19   resident, there's nothing HR can do to keep that  
20   person still in the program, correct?

21               MR. WHITFIELD:  Object to the form.

22               THE WITNESS:  They're just two separate  
23   distinct tracks and they are operated  
24   separately from each other.

25               If the program director decides that the

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1 house officer is not meeting the  
2 expectations, they do not have to confer with  
3 HR in order to remove that person from the  
4 program. And the questions that  
5 Ms. Greenfield raised were all more in line  
6 with the academic component of Dr. Papin's  
7 status than they were of the employee  
8 component of his status and the employee  
9 component of his status was the basis for the  
10 request for termination.

11 Q. (By Mr. Schmitz) In this case here, the  
12 first thing that came in how you -- how HR became  
13 involved was there was a request from the academic  
14 program to terminate Dr. Papin's employment,  
15 correct?

16 A. Yes.

17 Q. So if there is a request from the  
18 academic program to terminate a resident shouldn't  
19 the steps for terminating someone from an academic  
20 program be followed as well as the steps for  
21 terminating someone from an HR perspective also be  
22 followed?

23 MR. WHITFIELD: Object to the form.  
24 You're mixing terms up.

25 Q. (By Mr. Schmitz) You can answer if you

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1     **can.**

2           A.     When a house officer is in a training  
3     program there are specific processes that the  
4     graduate medical education office observes that I  
5     don't have involvement in. My only involvement  
6     occurs when there is a request to HR based on the  
7     employee status, and that is what was followed in  
8     this case. Anything that was done from the  
9     graduate medical education office would have  
10    existed separate from anything that HR did.

11          Q.     Has there ever been a case in your seven  
12    years with UMMC where a -- someone in a residency  
13    program where the residency program requested a  
14    resident be terminated and HR did not ratify that  
15    decision?

16          A.     I am not aware.

17          Q.     Has there been any cases you've been  
18    involved with where a residency program has  
19    requested that you look into a situation, we would  
20    like to terminate X resident and where you  
21    overruled the program and said that that resident  
22    should not be terminated?

23          A.     No.

24          Q.     The next bullet point states here, how  
25    were the performance issues/concerns that are

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1    noted on the analysis trainee comments document  
2    addressed? Is there any supporting documentation?  
3    Was there any supporting documentation for any of  
4    these things?

5           A.    I don't know. And, again, that would  
6    have been part of the academic component. HR  
7    would not have any had any involvement in that.

8           Q.    Right above this in your e-mail that you  
9    responded back to this on February 15, 2017, at  
10   10:52 a.m., you stated to Molly Brasfield in  
11   employee relations that, I felt this would be an  
12   issue and I feel certain that the answer will be  
13   no to all of these except the last two since he  
14   has been off campus since 1/10. Why would you  
15   feel that this would be an issue if this is not  
16   something that HR deals with or this isn't a  
17   problem?

18          A.    The graduate medical education office  
19   operates in totality apart from HR. There are  
20   times when the actions taken by the graduate  
21   medical education office may tend to blur as to  
22   whether or not it is academic or HR related. And  
23   that was the nature of my comments.

24          Q.    So in this situation you believe that  
25   the involvement was blurred between the two

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1 tracks, right, between the HR track and the  
2 graduate medical education track, they were sort  
3 of blurring together so you were concerned about  
4 that?

5 A. There's often a spill over because as  
6 you have alluded, the person can not be an  
7 employee without being in the program. So  
8 sometimes it is difficult to determine if it is  
9 totally academic or if it is totally employee, and  
10 so sometimes there is a blurring of where one  
11 stops and where the other one starts.

12 Q. Okay. And in this case you believe  
13 there was some blurring going on and that is why  
14 you thought that there would be issues with this?

15 A. I thought that there could be some  
16 blurring but I also felt that based on the  
17 documentation provided there was enough concrete  
18 evidence to support the department's request for  
19 termination.

20 Q. Sure. Going down back to what we were  
21 looking at before, the bullet points that  
22 Ms. Greenwood sent to you states the next one, how  
23 is the disruptive incident addressed that occurred  
24 between Dr. Papin and Joshua? And that would have  
25 been Joshua Stavins. Did you conduct any



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1 investigation into the incident between Dr. Papin  
2 and I believe it was a nurse practitioner Josh  
3 Stavins?

4 A. I did not.

5 Q. At UMMC when there is a complaint or the  
6 HR becomes aware that two employees potentially  
7 got into a violent encounter or physical  
8 encounter, isn't that something that HR usually  
9 looks into?

10 A. If it is brought to HR's attention  
11 either at the time it occurs or shortly after it  
12 has occurred. There are many incidents that the  
13 departments handle without HR involvement and this  
14 was one of those.

15 Q. So after becoming aware of this you did  
16 not deem it necessary as part of your  
17 investigation function in human resources to look  
18 into or at least go out and speak to Mr. Stavins  
19 to see what the situation was with Dr. Papin and  
20 him?

21 A. I felt that the documentation provided  
22 by the department was complete enough to support  
23 their recommendation.

24 Q. Next question states, can you provide a  
25 copy of the expectations that were communicated by

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1 Dr. Mahoney, I'm assuming to Dr. Papin. Did you  
2 ever see a copy of the expectations that  
3 Dr. Mahoney stated that she had given to  
4 Dr. Papin?

5 A. Again, that would have been a part of  
6 the academic component. I did not.

7 Q. So whether -- if someone is giving  
8 somebody behavioral expectations, workplace  
9 expectation as the senior chief resident, that  
10 would have no factor whatsoever in whether HR was  
11 going to terminate a resident's employment?

12 MR. WHITFIELD: Object to the form.

13 THE WITNESS: The decision to terminate  
14 would have been based on the belief that  
15 there was enough documentation presented by  
16 the department to support their request.

17 Q. (By Mr. Schmitz) Did the department  
18 provide you documentation from Dr. Mahoney stating  
19 that the expectations which she stated that she had  
20 given to Dr. Papin?

21 A. I would have to go back and review.  
22 Currently I do not recall.

23 Q. Okay. It states, the next one, since  
24 2/6 follow-up on ICare report has this been  
25 completed? If so, provide a copy of the ICare

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1     **report. What are ICare reports?**

2           A. I don't recall what the acronym is for  
3     but the report allows employees, faculty members  
4     to provide anonymous reporting of any situations  
5     that they felt would be potentially endangering to  
6     a patient. That was the way it was previously  
7     done when I first started at UMMC, and at some  
8     point it also now has become where if an employee  
9     feels that the behavior or performance of a  
10    co-worker in terms of interaction is  
11    inappropriate, it can also be reported through the  
12    ICare report. It is typically used only on our  
13    clinical side of the enterprise.

14          **Q. And that's typically just to report if**  
15    **there was a problem with patient care or an**  
16    **irregularity of some sort that the hospital should**  
17    **look into and investigate for the sake of patient**  
18    **care?**

19          A. I've also seen ICare reports where one  
20    employee has reported a co-worker because they did  
21    not appreciate the way they were spoken to  
22    regarding some kind of performance that they were  
23    doing, not necessarily any more just pertaining to  
24    potentially derelict patient care.

25          **Q. In this case it was about the ICare**

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1 report that she was talking about was regarding  
2 patient care though, correct, than it was --

3 A. Yes.

4 Q. Okay. And do you know if an ICare  
5 report was ever done regarding the derelict  
6 patient care that Dr. Papin was accused of?

7 A. There was not.

8 Q. Why is that?

9 A. I don't know.

10 Q. You requested that an ICare -- even  
11 after the fact, well after the fact, you had  
12 requested but nobody ever went ahead and filled  
13 that out; is that correct?

14 A. I asked if one had been submitted.

15 Q. Okay. And when you asked whether one  
16 had been submitted, who did you ask for that?

17 A. I don't recall. I think it was Renee  
18 Greene who was the senior education administrator.

19 Q. And in your request to ask for that --  
20 well, tell me about this actually. When an ICare  
21 report is done and it's regarding patient care,  
22 whether somebody was negligent or derelict as you  
23 stated, in patient care somehow, what typically  
24 follows in the wake of an ICare report derelict  
25 patient care? Is there an investigation done

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1     **regarding into that incident?**

2           A.     There is a clinical committee that  
3     reviews those ICare reports and determines what  
4     kind of resolution should be recommended. It is  
5     not something that HR is involved in.

6           Q.     Okay. And so because there was no ICare  
7     report done here there would have been no  
8     committee to review -- no clinical committee to  
9     review Dr. Papin's alleged actions or negligence  
10    as he was accused, correct?

11          A.     There would not be a clinical committee  
12    as a result of the ICare report, but there would  
13    be a review within the department for the -- under  
14    Dr. Earl's purview to review it.

15          Q.     Okay. So because there was no ICare  
16    report done there was no prompt for Dr. Earl to  
17    conduct a more thorough investigation into the  
18    allegations that Dr. Papin had allegedly missed an  
19    ulcer on the back of one of the patients he was  
20    seeing?

21          A.     I can't attest to that.

22          Q.     The last one is, what progress was made  
23    or not made by Dr. Papin since receiving the  
24    remediation plan on 1/10/17 and being placed on  
25    administrative leave. Was there any other

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1 incidents involving Dr. Papin since 1/10/17? Are  
2 you aware of any progress that was made or not  
3 made by Dr. Papin since 1/10 after he was placed  
4 on administrative leave?

5 A. He was not on campus following that date  
6 so I am not aware of anything else that may have  
7 been done.

8 Q. Is it typical for residents to get  
9 placed on remediation plans if they're --

10 A. I'm not --

11 Q. -- issues?

12 A. I'm not aware.

13 Q. Have you seen that in other cases  
14 involving resident discipline that you've been  
15 involved in?

16 A. No, not that I have been involved in.  
17 But, again, please remember that the graduate  
18 medical education office and those specific  
19 departments operate totally within their own realm  
20 in terms of the house officers.

21 Q. Okay. So when you say they operate  
22 completely and totally in their own realm with  
23 respect to house officers, so, again, these things  
24 that Pamela Greenwood is bringing up to you that  
25 you're saying aren't important from an HR

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1 perspective, why are they not important? Isn't  
2 she just checking up here to see whether the  
3 graduate medical department who are operating in  
4 their own realm is doing the things that they're  
5 supposed to do in a termination situation of a  
6 resident?

7 A. I would not say that they are not  
8 important. There are two totally different  
9 responsibilities that the graduate medical  
10 education office has based on the ACGME standards  
11 and there's a totally different responsibility  
12 that HR serves at UMMC. And, again, everything  
13 that Ms. Greenwood was asking was more -- would be  
14 more in line with the purview of the graduate  
15 medical education office from a teaching  
16 standpoint rather than the role of HR in terms of  
17 the employee performance.

18 Q. And you just mentioned the ACGME  
19 standards that govern the graduate medical  
20 education program, so these would be certain  
21 things that would potentially be implicated, the  
22 things that they're talking about here that the  
23 graduate medical education program would want to  
24 be doing if they wanted to be in compliance with  
25 ACGME standards?

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1 A. I can --

2 MR. WHITFIELD: Object to the form. You  
3 can answer to the best of your knowledge.  
4 She's not a 30(b)(6) on the ACGME standards.

5 THE WITNESS: Right. I can not address  
6 those specifics. I can only tell you that  
7 there are two separate tracks for house  
8 officers and the graduate medical education  
9 office operates as that guardian for those.  
10 And I do not have familiarity with that as  
11 all of that is managed by a separate office.

12 Q. (By Mr. Schmitz) You stated earlier that  
13 these two areas and tracks, they tend to blur  
14 sometimes, so wouldn't it be incumbent and wise to  
15 have some knowledge of the two different tracks so  
16 that when you're making decisions in HR that you're  
17 also aware of the potential ACGME implications and  
18 graduate medical education implications of those  
19 decisions?

20 A. Any time there is a need to have that  
21 information there is conferencing with those  
22 people who are considered the subject matter  
23 experts.

24 Q. Okay. I'm going to -- on this page, on  
25 this exhibit here, if we scroll down to below



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1 Ms. Greenwood's e-mail to you with the bullet  
2 points we have an e-mail which you drafted and you  
3 said to Cecilia Bass. It starts, good afternoon,  
4 feedback sessions have been held. Do you see  
5 where I'm talking about?

6 A. Yes.

7 Q. That e-mail is dated February 6, 2017,  
8 sent by you at 5:45 p.m.?

9 A. Yes.

10 Q. So this was on February 6 and you wrote,  
11 feedback sessions have been held with this  
12 employee but his performance continues to be less  
13 than satisfactory. How was Dr. Papin's  
14 performance continuing to be less than  
15 satisfactory since he was no longer on campus at  
16 this point and had not been on campus for almost a  
17 month at that point?

18 A. The process for providing a summary to  
19 the office of employee relations includes a  
20 synopsis of everything that has been used to make  
21 the determination. And it always begins with a  
22 summary statement and that statement would have  
23 been based on a review of all of the  
24 documentation. As you can see the first date  
25 would be 7/29/16, so that summary statement would

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1 be to encompass everything that has occurred over  
2 the course of whatever caused the concerns of that  
3 employee.

4 Q. You go on to say that some of his  
5 actions are potentially a threat to patient safety  
6 and the director of his program feels that the  
7 liability is too great to continue -- to have him  
8 continue. What actions were potentially a threat  
9 to patient safety in your opinion?

10 A. There were several instances that the  
11 documentation received from the department  
12 included such as not conducting a review of a  
13 patient to determine whether or not there were  
14 wounds, for instance. That was one of the things  
15 that was included in the documentation received.

16 Q. Anything else, or just that one  
17 incident? Was that the only incident you were  
18 considering at that time?

19 A. There was another incident where  
20 Dr. Papin was paged toward the end of his shift,  
21 there was a code given on one of his patients that  
22 he did not answer. There were other incidents  
23 where Dr. Papin could not be found on the premises  
24 during the day when he should have been on his  
25 shift.

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1 Q. Okay. Okay. We'll go through those.

2 MR. WHITFIELD: Greg, if you're at a  
3 quick stopping point, we've been going a  
4 little over an hour, can we take about five?

5 MR. SCHMITZ: Of course.

6 MR. WHITFIELD: Or, you know, if you're  
7 not at a stopping point I can wait a few more  
8 minutes, but just...

9 MR. SCHMITZ: Hold on, let me -- yes,  
10 that's fine. We can take a stop.

11 MR. WHITFIELD: All right.

12 (A brief recess was taken.)

13 EXAMINATION BY MR. SCHMITZ:

14 Q. All right, Ms. Whitlock, so going back  
15 to what we were looking at prior to the break, I'm  
16 looking at the e-mail that you had sent out on  
17 February 6, 2017 at 5:45 to Cecilia Bass among  
18 others within HR and employee relations  
19 department. So you have here under where it says,  
20 Facts, Dr. Truman Earl, Director of School of  
21 Medicine, referred Dr. Papin to employee health to  
22 check for the presence of illegal substances and  
23 those tests were negative. Is that just a normal  
24 standard procedure that in these types of  
25 discipline type cases that the residents are

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1     **referred to go take a drug test?**

2           A.     It is not. I would presume that there  
3     was some behavior that Dr. Earl deemed  
4     questionable. We do not have a standard random  
5     drug policy but supervisors may refer an employee  
6     if the behavior is such that they fill that there  
7     is some outside substance causing a change in the  
8     behavior.

9           Q.     Do you have any documentation or  
10    anything with respect to that or that was just  
11    only handled by Dr. Earl in the --

12          A.     It was only handled within the  
13    department. HR was not involved.

14          Q.     Then it goes on to say -- you then  
15    state, he then placed Dr. Papin on administrative  
16    leave and then consulted with human resources  
17    regarding the next steps. Dr. Earl was concerned  
18    as Dr. Papin's was not up to the standards of a  
19    surgical resident. He was not truthful in  
20    response to his inquiries and his negligence was  
21    liable to result in patient safety issues leaving  
22    Dr. Earl to conclude that the only remedy was  
23    separation.

24                 So Dr. Earl had concluded that the only  
25    remedy was separation and then he consulted with

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1     you guys for what? For what purposes -- if he had  
2     already concluded that the only remedy was  
3     separation, for what purpose would HR need to get  
4     involved?

5           A. At UMMC any time a department recommends  
6     termination of an employee it has to be approved  
7     through the office of employee relations and that  
8     information first comes to the HR business partner  
9     who has a responsibility of summarizing the  
10    situation and sending it on to employee relations.

11          Q. And would the human resources department  
12    also have the responsibility to investigate the  
13    claims being made by the department to  
14    substantiate the veracity of those claims?

15          A. Yes.

16          Q. Here you've got the first date in your  
17    timeline of events for Dr. Papin, you've got on  
18    7/29/2016, Dr. Papin was in the cardiovascular  
19    rotation and was the first house officer to work  
20    in the cardiovascular intensive care unit. He was  
21    not accustomed to the way nurse practitioners are  
22    utilized at UMMC being able to run the day to day  
23    operations of the cardiovascular intensive care  
24    unit and his reactions and responses to them were  
25    less than professional. When NPs would ask to

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1 perform routine tasks or wish to teach him  
2 something, he would arrogantly respond with such  
3 statements -- by stating such as "you are not my  
4 boss" or "I am a surgeon." He would not check  
5 with them -- check in with them and he would not  
6 be seen until it was time for evening rounds.

7 Did you ever -- the nurse practitioners  
8 that reference in this statement, did you ever  
9 interview any of these nurse practitioners to  
10 confirm that Dr. Papin had made these statements  
11 such as "you are not my boss" or "I am a surgeon"?

12 A. I did not.

13 Q. You also state he would not check in  
14 with them and would not be seen until it's time  
15 for evening rounds. Did you ever interview or  
16 investigate anyone who stated that Dr. Papin did  
17 not check in with them or that he had not seen  
18 them until -- they would not see him until evening  
19 rounds?

20 A. I did not.

21 Q. The next sentence states, Dr. Ines  
22 Berger, Professor-Anesthesiology, discovered that  
23 Dr. Papin had not been given the cardiovascular  
24 intensive care policy at the beginning of the  
25 rotation, was only given one after he carried

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1 coffee into a patient's room which was against  
2 policy and was confronted by an NP which almost --  
3 which escalated into a heated exchange. Did you  
4 ever talk to Dr. Ines Berger regarding Dr. Papin's  
5 behavior at cardiovascular intensive care unit?

6 A. I did not.

7 Q. Did you ever talk to the nurse  
8 practitioner that he almost got into a heated  
9 exchange -- that he got into a heated exchange  
10 with?

11 A. No.

12 Q. When you say heated exchange, that  
13 exchange based on your knowledge, it was an almost  
14 violent exchange, correct?

15 A. I can not attest to that, I was just  
16 told that it was heated.

17 Q. In incidents where there are heated  
18 exchanges amongst employees isn't it incumbent  
19 upon HR to conduct at least an interview or an  
20 investigation into that or do --

21 A. It depends on the situation and whether  
22 or not the department has taken steps to handle  
23 it.

24 Q. Which steps did the department take to  
25 handle the situation?

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1           A.    It was my understanding that both of  
2   those people were spoken with. And, again, we're  
3   talking about something that I received in January  
4   of 2017 that had occurred six months prior.

5           Q.    Wouldn't an incident regardless of  
6   whether it occurred six months ago or a year ago  
7   of workplace bullying or harassment, especially of  
8   the type that could potentially involve a physical  
9   altercation be something that HR should always  
10   want to look into?

11          A.    If the department has not handled it,  
12   yes.

13          Q.    Well, you did see it necessary to talk  
14   with Dr. -- when you interviewed Dr. Papin on  
15   January 27, you did bring up this incident with  
16   Dr. Papin, correct?

17          A.    I brought everything with him that had  
18   been reported.

19          Q.    Right. But you didn't bring the  
20   incident up with the other nurse practitioner who  
21   was also involved in the altercation?

22          A.    I did not.

23          Q.    So you then go on to state that  
24   Dr. Berger then e-mailed Dr. Earl and Dr. Shake  
25   and she indicated that Dr. Papin had issues with



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1 all four cardiovascular nurse practitioners as  
2 well as the pharmacist. Did you ever go speak  
3 with any of the cardiovascular nurse  
4 practitioners -- the four cardiovascular nurse  
5 practitioners or the pharmacist who had alleged  
6 nondescript issues with Dr. Papin?

7 A. No.

8 Q. Are you aware if Dr. Papin was ever told  
9 the identity and issues that these four  
10 cardiovascular nurse practitioners and pharmacists  
11 had with him?

12 A. I don't know.

13 Q. Yeah, and she assessed that he was  
14 bright and motivated with a lot of potential but  
15 needed help to mentor him to navigate the system  
16 and get off to a good start. Isn't that -- in  
17 terms of residents at UMMC, residency program,  
18 that's a training program, correct, for doctors?

19 A. Yes.

20 Q. So that they can advance into a full  
21 fledged practice, medical practice, correct?

22 A. Yes.

23 Q. And this was -- Dr. Papin had only been  
24 a resident, this was his first year of residency  
25 at UMMC, correct?

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1 A. Yes.

2 Q. So in essence he was a first year intern  
3 at UMC; is that correct?

4 A. Yes.

5 Q. Are the expectations on first year  
6 intern residents at UMMC different from the  
7 expectations from somebody who might be a fourth  
8 or fifth year resident at UMMC?

9 A. I'm not familiar with their specific  
10 expectations.

11 Q. Are you aware whether a first year  
12 resident would have less expectations and  
13 responsibilities than a fourth or fifth year  
14 resident?

15 A. I would presume they would have  
16 expectations of their specific program, but I am  
17 not familiar with that program.

18 Q. Okay. Then you have in your timeline  
19 8/31/16 to 12/15/16. That's a span of almost four  
20 months there. And you state that all house  
21 officers receive evaluations for various rotations  
22 for which they are assigned. Although some  
23 statements were complimentary, many of Dr. Papin's  
24 were quite concerning. There was a consensus that  
25 he was intelligent and desirous to become an

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1     excellent surgeon; however, he was absent for some  
2     activities, did not seem prepared for others, and  
3     resorted to the blame game when confronted with  
4     his shortcomings. Just going -- just these  
5     allegations that you have here, he was absent for  
6     some activities, did you ever -- do you recall  
7     what specific activities he was absent from that  
8     you uncovered during your investigation?

9           A.    I do not. I would have to go back and  
10    review the information that Dr. Earl had provided.

11          Q.    You also stated that he did not seem  
12    prepared for others. Do you recall the incidence  
13    where he was not prepared for any activities that  
14    he was doing as a first year resident at UMMC?

15          A.    I do not.

16          Q.    Do you recall where he resorted to the  
17    blame game when confronted with his shortcomings?

18          A.    Again, I would have to go back and  
19    review the information that was presented.

20          Q.    At UMMC are there policies and  
21    procedures from an HR perspective that state that  
22    all incidents of -- well, actually let me -- are  
23    the HR -- is there an HR policy or procedure or  
24    perhaps a zero tolerance policy for violence at  
25    UMC?

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1           A.    I would have to review that specifically  
2   to determine that. I'm not currently familiar.

3           Q.    If two employees get into a fight at  
4   UMMC and there's a physical altercation, whether  
5   that be pushing, hitting, kicking, anything like  
6   that, is it your experience that those employees  
7   are both terminated?

8           A.    I actually have not had an experience of  
9   that nature.

10          Q.    Okay. And you're not aware whether UMMC  
11   has a zero tolerance policy for violence?

12          A.    Again, I would have to review that to  
13   see how it is specifically stated.

14          Q.    Where would that be found?

15          A.    It would be found in the faculty staff  
16   handbook.

17          Q.    Okay. Then you have here on -- between  
18   this 8/31 and 12/15 here, other than the  
19   evaluations that Dr. Papin would have received in  
20   the regular course you did not document that  
21   anybody else had spoken to or had a -- how you put  
22   it earlier, an informal verbal warning or written  
23   verbal warnings or final written warnings at any  
24   point in time during that process; is that  
25   correct?

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1 A. Are you saying given to Dr. Papin?

2 Q. Yes.

3 A. That's correct.

4 Q. Then on 1/3/17 through 1/10/17 you  
5 state, Renee Green, Senior Education  
6 Administrator, compiled e-mails concerning  
7 Dr. Papin's performance. When you say she  
8 compiled e-mails, she was going around asking  
9 Dr. Papin's co-workers I'm assuming if they had  
10 any issues or experienced any issues with  
11 Dr. Papin?

12 A. I can't attest to that. I don't know  
13 the nature of those e-mails being received.

14 Q. Okay. But you summarized those e-mails  
15 that were received afterwards, correct, so you are  
16 aware that she did compile e-mails from the other  
17 folks in the department, correct?

18 A. Yes, but I don't know the impetuous for  
19 that.

20 Q. Okay. Renee Greene as the Senior  
21 Education Administrator for the general surgery  
22 department, she worked closely hand in hand with  
23 Dr. Earl?

24 A. Yes.

25 Q. Okay. And she's sort of Dr. Earl's

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1 administrative assistant, is that --

2 A. No.

3 Q. No?

4 A. Her role is to ensure that the house  
5 officers, residents, fellows are on track with all  
6 of their requirements, and she would serve as  
7 their main point of contact if they had questions  
8 regarding any of their requirements.

9 Q. Okay. The first person that you mention  
10 here is Dr. Colin Muncie. You state that  
11 Dr. Papin had -- she -- had been delegated the  
12 admittance of a trauma patient to the ICU. She  
13 instructed Dr. Papin to enter orders and  
14 communicate to the ICU. He was informed by --  
15 Dr. Colin Muncie was informed by another resident  
16 that the ICU was never notified that the patient  
17 was coming.

18 Did you ever do any investigation to --  
19 with Dr. Muncie or speak with Dr. Muncie or  
20 anybody in the ICU to confirm that Dr. Papin  
21 dropped the ball in communicating with the ICU  
22 department regarding this patient?

23 A. I did not.

24 Q. Are you aware of the identity of this  
25 patient?

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1 A. No.

2 Q. Did you receive any medical records to  
3 substantiate that this patient's admittance into  
4 the ICU department was delayed because of this  
5 error?

6 A. No.

7 Q. Was there an ICare report filled out  
8 regarding this incident involving this patient who  
9 was not -- who was delayed being admitted into the  
10 ICU?

11 A. I don't know.

12 Q. Stated, when he confronted Dr. Papin he  
13 confidently told him that he'd spoken to someone  
14 although he could not remember who it was.  
15 Dr. Muncie followed up with the ICU nurse  
16 practitioner who had spoken to everyone who had  
17 been on duty and it was confirmed that Dr. Papin  
18 never -- it was confirmed that Dr. Papin never  
19 spoke to anyone on the ICU team. Do you know who  
20 the ICU nurse practitioner who Dr. Muncie  
21 communicated with was?

22 A. No.

23 Q. Did you verify any of these allegations  
24 with that nurse practitioner?

25 A. No.

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1 Q. Did you direct anybody to verify the  
2 allegations regarding this ICU nurse practitioner?

3 A. No.

4 Q. Did you ever have anyone try to figure  
5 out who the identity of this person was?

6 A. No.

7 Q. So how can you state that it was  
8 confirmed that Dr. Papin never spoke to anyone on  
9 the ICU team with such confidence when you had  
10 conducted no investigation or interviews into any  
11 of these allegations whatsoever?

12 A. I had to take the word of Dr. Earl in  
13 his preparation for his recommendation. As the  
14 leader of that group it would have been his  
15 responsibility to insure that everything that was  
16 reported to him was accurate. And as he was  
17 providing us with the summary we decided to take  
18 his word that these things had actually occurred.

19 Q. But this wasn't a summary from Dr. Earl,  
20 this was an actual e-mail that you had reviewed  
21 from Dr. Muncie, correct?

22 A. As a result of a compilation of those  
23 things through Dr. Earl, yes.

24 Q. Dr. Muncie is a research fellow, so  
25 Dr. Muncie he is also -- that's a resident as



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1 well, correct?

2 A. Yes.

3 Q. Okay. So there was a report from a  
4 resident regarding another resident and HR -- you  
5 and HR did not deem it necessary to verify --  
6 independently verify the validity of any of this  
7 other resident's allegations regarding Dr. Papin?

8 A. No.

9 Q. In your opinion is it possible that  
10 this -- that Dr. Papin did in fact make this call  
11 down to the ICU and somebody else just maybe had  
12 dropped the ball and didn't enter it and were  
13 trying to cover for their own skin so that they  
14 didn't get in trouble?

15 A. It's possible, but it seems highly  
16 unlikely.

17 Q. But we don't know one way or the other?

18 A. Correct.

19 Q. But yet you stated it was confirmed that  
20 he never spoke to anyone on the ICU team?

21 A. It was perceived to be correct in  
22 Dr. Muncie's assertion that, yes, it was confirmed  
23 that Dr. Papin had never spoken with anyone. The  
24 ICU team would not have been so large that if  
25 someone had spoken with Dr. Papin no one would

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1 have remembered it.

2 Q. Well, you can't tell one way or the  
3 other because you didn't actually conduct any  
4 investigation into that?

5 A. Correct.

6 Q. Would there have been a way to  
7 independently check the phones within the hospital  
8 to see if Dr. Papin had called from a certain  
9 place in the hospital to another place in the  
10 hospital at a certain specified time?

11 A. I don't know.

12 Q. Did you ever try to find that out?

13 A. I did not. So many times the house  
14 officers use their personal phones, and I'm not  
15 sure how long records of calls are maintained.

16 Q. Are those -- when a house officer like a  
17 resident is on -- they're given a UMMC pager; is  
18 that correct?

19 A. I'm not aware of all those processes.

20 Q. Okay. But there are phones all  
21 throughout the hospital, correct?

22 A. Yes.

23 Q. And many times if someone is calling  
24 from, let's say, one department down to the ICU  
25 they would typically use a hospital phone; isn't

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1     that correct?

2           A.     I don't know.

3           Q.     Did you ever ask Dr. Papin whether he  
4     used a hospital phone or not?

5           A.     I did not.

6           Q.     Okay. The next one is Dr. William  
7     Crews, a PGY3 surgical resident, he was not a PGY3  
8     surgical resident at that time, correct?

9           A.     Dr. Crews?

10          Q.     Yes.

11          A.     That's what was reported to me so I  
12     don't know.

13          Q.     Okay. He said that while working with  
14     Dr. Papin he always seemed to show up just before  
15     rounds without actually having seen any patients  
16     but then he would lie to the residents about what  
17     he had done. Was there any investigation by you  
18     or interviews by you of Dr. Crews to verify or  
19     test the validity of the fact that Dr. Papin was  
20     not showing up or just showing up right before  
21     rounds and not seeing his patients?

22          A.     No.

23          Q.     Have you ever been involved in any kind  
24     of -- for any employees, have you ever been  
25     involved in any kind of investigation regarding an

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1 employee showing up late to work or excessive  
2 tardiness where that employee had to be  
3 disciplined as a result?

4 A. Yes.

5 Q. And in -- during that, during those  
6 investigations was there -- did the employees ever  
7 deny that they were late or not was it -- or did  
8 they always admit that they were late?

9 A. No, any time we've done investigations  
10 with employees regarding tardiness those have been  
11 non-exempt employees who have to record all of  
12 their time through the Kronos Time System, so it  
13 would be easy to determine when they actually  
14 clocked in.

15 Q. Okay. In this case the medical  
16 residents -- at the parking garage at UMMC when  
17 they pull in, they pull into a parking garage and  
18 they swipe their card; isn't that correct?

19 A. Yes.

20 Q. So would it have been possible for you  
21 in HR to pull the records for Dr. Papin's parking  
22 card to see what time he was swiping in to park  
23 his car in the morning?

24 A. Yes.

25 Q. But you didn't do that?

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1           A.    No because you can swipe in the garage  
2   to park but that doesn't necessarily indicate when  
3   you actually arrive where you're scheduled to be.

4           Q.    But -- yes, while that might be true,  
5   but wouldn't -- if he was arriving so late and  
6   just right before rounds wouldn't you also have  
7   been able to see that he was showing up and  
8   swiping his card right before rounds and running  
9   in, you know, and pretending like he had seen  
10   patients when he had not?

11          A.    It would indicate what time he arrived  
12   at the garage only.

13          Q.    Okay. But you would have been able to  
14   see that if he was arriving in the garage right  
15   before his rounds were starting with the attending  
16   physicians, correct?

17          A.    It would indicate what time he arrived  
18   in the garage, correct.

19          Q.    But that would -- if you would have done  
20   that step that would have tended to indicate  
21   that -- whether Dr. Papin was being truthful or  
22   not about the time he was showing up to work,  
23   correct?

24          A.    It would indicate what time he arrived  
25   at the garage.

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1           Q.    Okay. What about when Dr. Papin -- when  
2   the residents, when they come in to relieve each  
3   other, right, there's a sign in/sign out process  
4   where one resident comes in and says, hi, I'm here  
5   to relieve you, you're on the -- one resident is  
6   on the night shift and one is on the day shift and  
7   they relieve each other? They typically meet in  
8   the resident lounge; isn't that correct?

9           A.    I'm not aware of what the exact process  
10   is.

11          Q.    Is there a swipe card to get into the  
12   resident lounge or is it just open to anybody?

13          A.    I don't know.

14          Q.    Are there any other points in time where  
15   Dr. Papin would have to swipe his card to access  
16   parts of the building into UMMC as he began his  
17   day?

18          A.    There are many places on campus that are  
19   badge accessible only, but I'm not familiar with  
20   all of the different places Dr. Papin would have  
21   been required to go.

22          Q.    When a doctor comes into the hospital  
23   and they start seeing patients, I'm assuming  
24   everything is done in patient charting, that's  
25   done electronically on the computers and

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1 everything like that, correct?

2 A. It is.

3 Q. And when somebody is doing their  
4 charting or making observations or ordering things  
5 for patients, they have their own specific log in;  
6 isn't that correct? Like Dr. Papin's log in at  
7 UMMC so that whatever actions he takes or  
8 recommended is then recorded electronically in  
9 that system?

10 A. Yes.

11 Q. And that symptom would also record the  
12 date and time whenever Dr. Papin would be doing  
13 work on an electronic basis within that system;  
14 isn't that correct?

15 A. Yes.

16 Q. Did we ever check the charts of  
17 Dr. Papin to see what time he started charting  
18 patients or seeing patients on any given day or  
19 looking at any samples of that to see whether he  
20 was showing up just before rounds as Dr. Crews  
21 indicated here?

22 A. I did not.

23 Q. Do you know if anybody else ever did?

24 A. I do not.

25 Q. The next thing Dr. Crews, I'm still

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1 here, it says, when caught doing something wrong  
2 he would blame a medical student for his own  
3 error. Do you recall what incident that was or  
4 what medical student he blamed for his own error?

5 A. I do not. I would have to go back and  
6 review all of the e-mails that this was compiled  
7 from.

8 Q. The next paragraph is Dr. Mahoney  
9 e-mailed Dr. Earl and Ms. Greene regarding  
10 numerous specific concerns. One had to do with  
11 Dr. Papin having told Dr. Mahoney that upon his  
12 observation a patient did not have any skin  
13 changes. When the patient was seen by wound care  
14 they reported a severe ulcer that was so  
15 significant that surgery was required. This could  
16 not have happened over the course of a few days  
17 and the resulting action could have been lessened  
18 had Dr. Papin examined the patient and reported  
19 it.

20 Are you aware that Dr. Papin had been  
21 observing and examining that patient for weeks  
22 prior to this wound becoming infected?

23 A. I am not.

24 Q. Are you aware that there was a wound  
25 care nurse also attending to this patient who had



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1    **been applying creams and other topical ointments**  
2    **to that wound for weeks prior to the wound**  
3    **becoming infected?**

4               MR. WHITFIELD: Object to the form,  
5               misstating prior testimony.

6               Q.    **(By Mr. Schmitz) You can answer.**

7               A.    I am not.

8               Q.    **Did you review any of the medical**  
9    **records with respect to this patient that was**  
10 **referenced by Dr. Mahoney?**

11              A.    I did not.

12              Q.    **So then how could you say with such**  
13 **certainty in your summary that this could not have**  
14 **happened over the course of a few days and the**  
15 **resulting action could have lessened -- could have**  
16 **been lessened had he examined the patient and**  
17 **reported it?**

18              A.    Again, the information provided here was  
19 a summary of the e-mails that had been received  
20 through Dr. Earl.

21              Q.    **And there was no ICare report done on**  
22 **this incident regarding this patient with the**  
23 **ulcer that was so severe that surgery was**  
24 **required?**

25              A.    I don't know.

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1           Q.    Is that normal where something that is  
2   allegedly so severe that a patient is required an  
3   unnecessary surgery and there's no ICare report  
4   filled out?

5           MR. WHITFIELD:  Object to the form of  
6   the question.  You can answer.

7           THE WITNESS:  ICare reports, again, are  
8   submitted anonymously, so it would just  
9   depend on whomever else was in contact with  
10   that provider who determined that an ICare  
11   report should have been submitted.  ICare  
12   reports are not requirements.

13          Q.    (By Mr. Schmitz)  Sure.  But shouldn't  
14   have, like you said, an independent clinical  
15   committee have reviewed this to see where UMMC could  
16   have done better with respect to the care of this  
17   patient?

18          A.    If someone had noted that there was a  
19   lack of appropriate attention given to the patient  
20   they could have reported that within the  
21   department and the department would have taken the  
22   necessary steps to review.  ICare reports, again,  
23   are not the only way that attention is given to  
24   potentially dangerous situations.

25          Q.    Let me ask you this, when a resident is

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1     seeing patients they typically do that under the  
2     supervision of an attending physician, an actual  
3     doctor, correct? They're not allowed to just  
4     freely practice medicine because they're just  
5     interns, correct?

6           A.     Yes.

7           Q.     And so did you ever look or speak to the  
8     attending physician who was also overseeing this  
9     patient along with Dr. Papin?

10          A.     I did not.

11          Q.     Did you confirm whether the wound care  
12     nurse or that attending physician who are subject  
13     matters experts in those activities had any  
14     different opinions other than what Dr. Papin had  
15     with respect to the wound on this patient?

16          A.     I did not.

17          Q.     So the blame that you placed here on  
18     Dr. Papin that the -- that the severity of this  
19     wound could have been lessened had he examined the  
20     patient and reported it, so that blame you place  
21     on the first year resident and there was no  
22     investigation or talks with the attending  
23     physician, the wound care team, or any of the  
24     other nurse practitioners who are actually  
25     licensed to treat patients?

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1 MR. WHITFIELD: Object to the form.

2 THE WITNESS: I did not confer with  
3 anyone after reading the e-mails.

4 Q. (By Mr. Schmitz) So you just basically  
5 took -- for all of these people you took their  
6 allegations at face value without any investigation  
7 or follow-up regarding any of these things?

8 A. I believe that the leader of the program  
9 had done the due diligence to determine that these  
10 were accurate statements.

11 Q. But you don't know what he did in terms  
12 of due diligence one way or the other, correct?

13 A. I do not.

14 Q. In fact, before Ms. Greenwood had raised  
15 a bunch of concerns regarding the lack of  
16 documentation; isn't that correct, that which came  
17 from Dr. Earl? The concerns that we went through  
18 before, all those bullet points that we went --  
19 just before the break?

20 A. Would you clarify your question?

21 Q. In the last -- if you scroll up here the  
22 e-mail from Pam Greenwood to you, good morning,  
23 Pat, after reviewing documents additional  
24 information is needed. She asked for all of this  
25 additional information and all of these things

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1 where she viewed things that Dr. Earl had done as  
2 being deficient or not there as part of  
3 Dr. Papin's file. All of these things, but yet  
4 you just assumed that -- what basis do you have to  
5 assume that Dr. Earl did do his due diligence  
6 after Ms. Greenwood had raised all these concerns  
7 with you?

8 A. Again, those concerns that she raised  
9 would have been more pertinent to the academic  
10 component of his status rather than what we were  
11 reviewing in terms of the recommendation for  
12 termination. As Dr. Earl is the program director  
13 he has the responsibility for insuring that the  
14 house officers are meeting the expectations. And  
15 as the person who is trusted with that, it would  
16 be my responsibility to believe that he is  
17 appropriately conducting his requirements.

18 Q. Did you ever ask him if he was  
19 appropriately conducting his requirements?

20 A. I did have conversations with Dr. Earl  
21 where he reiterated all of the concerns that he  
22 had but, no, I did not ask him if he were actually  
23 appropriately doing his job.

24 Q. Isn't that part of your job in HR to  
25 make sure that other people are -- within UMMC are

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1 following the proper policies and procedures in  
2 doing their jobs with respect to employee  
3 discipline and terminations?

4 A. It is not.

5 Q. So then what is the involvement of HR --  
6 what is the point of HR being involved if all  
7 you're going to do is not investigate anything,  
8 take what somebody else at face value with no  
9 investigation and then just regurgitate the same  
10 thing? What is the role of HR, just to summarize  
11 everything that --

12 MR. WHITFIELD: Object to the form, you  
13 can answer.

14 THE WITNESS: The role of HR is to act  
15 as the conduit, the liaison, to determine  
16 whether or not documentation that has  
17 presented is sufficient enough to concur with  
18 and then seek approval for the  
19 recommendations that the department is  
20 bringing forth. When I reviewed all of the  
21 information that Dr. Earl had provided, it  
22 did appear conclusive enough to support the  
23 recommendation. I did review the evaluations  
24 that had been given to Dr. Papin. I did  
25 review the letter that Dr. Earl had given to

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1 him where he signed an acknowledgement that  
2 all of those things had occurred. So in my  
3 estimation that was sufficient enough to  
4 support the recommendation for the  
5 termination.

6 Q. (By Mr. Schmitz) In the context of a  
7 relationship between an attending physician and a  
8 medical resident in terms of patient care,  
9 ultimately the buck has to stop with the attending  
10 physician; isn't that correct?

11 MR. WHITFIELD: Object to the form.  
12 She's not a 30(b)(6) witness as to the  
13 relationships between residents and  
14 attendings.

15 Q. (By Mr. Schmitz) You can answer if you  
16 can.

17 A. I don't know.

18 Q. An attending physician is ultimately  
19 responsible for patient care; isn't that correct?

20 MR. WHITFIELD: Object to the form.  
21 Once again she's not a 30(b)(6) on patient  
22 care.

23 THE WITNESS: I would presume that every  
24 provider involved in patient care would be  
25 responsible.

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1           Q.    (By Mr. Schmitz) In the next part of this  
2 e-mail, the next one says, Ashley Griffin, RN, cited  
3 several incidents of inappropriate behavior by  
4 Dr. Papin.

5               Now, I'm going to put as Exhibit 2, we're  
6 going to kind of bounce back and forth between  
7 those, but I'm going to give you Exhibit 2 now,  
8 which is going to be what Ms. Griffin put in there.

9               (Exhibit 2 marked for identification.)

10           MR. SCHMITZ: It's going to say  
11 Exhibit 3 but it's really 2. It's going to  
12 be confusing, sorry, I'm going out of order.

13           MR. WHITFIELD: Got to do better, Greg,  
14 got to do better.

15           MR. SCHMITZ: I can't relabel it now,  
16 it's too late.

17           COURT REPORTER: So how do you want to  
18 identify it on the record?

19           MR. SCHMITZ: It's Exhibit 2.

20           MR. WHITFIELD: Oh, this is a picture.

21           MR. SCHMITZ: Now, we're going to be  
22 messed up for the rest of the day. Sorry.

23           MR. WHITFIELD: Can you read that?

24           THE WITNESS: Uh-huh (affirmative).

25           Q.    (By Mr. Schmitz) Let me know when you're



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1     **ready?**

2           A.     I've read it.

3           Q.     Okay. Was this the e-mail that you had  
4     reviewed from Ashley Griffin where you noted  
5     the -- cited seven incidents of inappropriate  
6     behavior by Dr. Papin?

7           A.     Yes.

8           Q.     I want to -- there is one incident, the  
9     first one on the first bullet point in her e-mail  
10    states, left during a code while I was on night  
11    float. The code occurred approximately at 5:59  
12    p.m. Joe said he was at his car at 6:01 when he  
13    found out it was his patient in the garage and  
14    proceeded to leave. He did hear the code called  
15    overhead prior to 6:00 p.m.

16                 Now, when a Code Blue is called out in a  
17    hospital do they state the patient's name and who  
18    it is or is it just Code Blue?

19           A.     I'm not certain, but I think they only  
20    call out the specific code color and the location.

21           Q.     Okay. And did you speak with Dr. Papin  
22    regarding this?

23           A.     I did.

24           Q.     And what was his response?

25           A.     He indicated that he heard it but he did

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1 not stop to check. He never thought whether or  
2 not it was his patient. He said that he had  
3 signed out and so he was headed out of the  
4 hospital for the day.

5 Q. Okay. And so once a resident signs out  
6 it would be the other resident's responsibility at  
7 that point to go attend to any patients that would  
8 be needed in that area; is that correct?

9 A. I don't know what kind of information  
10 they have been provided.

11 Q. Okay. Did you ever conduct any  
12 investigation or ever speak to Ms. Griffin  
13 regarding this incident?

14 A. I did not.

15 Q. Another -- the next bullet point, he did  
16 not show up on time to pre-round prior to the  
17 start of the shift -- the start of a shift during  
18 the holidays or get sign out prior to completion  
19 of trip.

20 Did you do any investigation regarding  
21 this to verify the validity of what she's stating  
22 here?

23 A. I did not.

24 Q. He did not go to traumas during the  
25 day -- during holidays.

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1 Do you know which trauma she's speaking  
2 of?

3 A. I do not.

4 Q. Did you ever ask Dr. Earl which traumas  
5 she was speaking of?

6 A. I did not.

7 Q. Next bullet point, he tried to send a  
8 patient home walking to the car whose car was  
9 across the street at the VA despite several nurses  
10 telling him the patient was not competent.

11 Did you ever try to determine who this  
12 patient was?

13 A. No.

14 Q. Did you ask Dr. Earl who this patient  
15 was?

16 A. I did not.

17 Q. Did you ever try to obtain this person's  
18 medical records?

19 A. No.

20 Q. He made -- the next bullet point, he  
21 made a female trauma student incredible  
22 uncomfortable and preferentially chooses and  
23 favors her over the male. He tries to be alone  
24 with the female student as well.

25 Now, again, earlier you testified that

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1 when someone makes an allegation of harassment at  
2 UMMC that there's an investigation, correct?

3 A. Yes.

4 Q. Was there an investigation done here  
5 regarding this alleged harassment by Dr. Papin of  
6 this unknown resident?

7 A. When it's a student I would need to know  
8 specifically because if the person is a student  
9 there would be a different office that would be  
10 involved in handling those situations but, no, I  
11 did not.

12 Q. Did you ever reach out to see if any  
13 other offices had tried to handle this situation  
14 or conducted an investigation?

15 A. I did not.

16 Q. Are you aware that it is an offense for  
17 UMMC in harassment cases to conduct an  
18 investigation and then also take prompt remedial  
19 measures where the investigation warrants such  
20 measures? It's a legal defense for HR to do that?

21 MR. WHITFIELD: I'm going to object,  
22 asking for legal conclusions.

23 THE WITNESS: I don't know.

24 Q. (By Mr. Schmitz) But it's the policy at  
25 UMMC that whenever allegations of harassment are

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1 brought forward to the attention of HR that an  
2 investigation is conducted, correct?

3 MR. WHITFIELD: Object to the form as  
4 she's not a 30(b)(6) on the policies.

5 Q. (By Mr. Schmitz) You can answer.

6 A. I'm -- I don't know.

7 Q. You don't know what?

8 A. I don't know if the policy is that when  
9 there's an allegation made because, again, it  
10 would depend on who is making the allegation. If  
11 it's the person who has been aggrieved, if it is  
12 someone just saying a student, so I would need to  
13 know more specific information in order to  
14 definitively respond.

15 Q. In this situation involving a resident  
16 with a trauma student when this investigation --  
17 when this is brought to your attention and you're  
18 reading this e-mail and making your summary that  
19 you've typed up here, you did not see that it was  
20 necessary or part of any -- did you check to see  
21 if this was part of the policies and procedures to  
22 conduct an investigation into these allegations of  
23 sexual harassment which are brought forward to  
24 your attention and that you reviewed?

25 A. I did not. And it does not specifically

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1 say sexual harassment. It said, preferentially  
2 chooses and favors her. So I can not infer  
3 exactly what that means. But, no, I did not seek  
4 to see if anyone else had done an investigation  
5 regarding that.

6 Q. So making another female student  
7 incredibly uncomfortable and trying to be alone  
8 with that student as well, that didn't raise any  
9 alarm bells on your head as an HR professional  
10 with years and years of experience that that might  
11 be something that needs to be looked into on  
12 behalf of UMMC?

13 A. It did not.

14 Q. Do you think now looking back at that,  
15 that that's something that you should have looked  
16 into as an HR professional?

17 A. I would have needed more information on  
18 it. And, again, I was basing my recommendation on  
19 the totality of everything that had been  
20 presented. And in the course of -- from June 2016  
21 until I was notified in January '17, I felt that  
22 there were enough egregious acts by Dr. Papin to  
23 support the department's recommendation.

24 Q. What other information other than there  
25 was a female trauma student and Dr. Papin and this

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1 stuff, what other information were you looking --  
2 I mean, do you need a smoking gun, do you need --  
3 what else do you need?

4 MR. WHITFIELD: Object to the form.

5 THE WITNESS: I don't know Ashley  
6 Griffin. I don't know the context in which  
7 she was reporting these. She said he tries  
8 to be alone with the female student. I don't  
9 know if he was alone. I don't know if the  
10 female student was specifically feeling that  
11 he was trying to do something untoward. So  
12 there's so many unknowns in this situation.

13 Q. (By Mr. Schmitz) So with that many  
14 unknowns, you as an HR professional sitting there  
15 summarizing Ashley Griffin's e-mail to everybody  
16 else in the human resources and employee relations  
17 and then recommending a termination based upon the  
18 seven incidents -- partially at least, upon the  
19 seven incidents of inappropriate behavior by  
20 Dr. Papin, you did not think it was incumbent upon  
21 yourself with all the unknowns that you just  
22 mentioned to pick up the phone and call Ashley  
23 Griffin to determine at least the identity of this  
24 student and --

25 A. I did not.

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1 Q. -- and the name of student?

2 A. I did not.

3 Q. Thank you.

4 Your next paragraph states, Dr. Earl met  
5 with Dr. Papin and discussed concerns that had  
6 been raised regarding his lying or being  
7 untruthful about patient care.

8 When did Dr. Earl meet with Dr. Papin?  
9 Is that the January 10 meeting that you reference  
10 where he signed that document?

11 A. That is where the information was  
12 summarized. I am not sure on the specific dates  
13 or date that Dr. Earl and Dr. Papin met.

14 Q. You state that he was lying or being  
15 untruthful about patient care. I asked if that  
16 was a fact but, again, you conducted no  
17 investigation and only took whatever Dr. Earl  
18 thought had happened, correct?

19 A. Yes.

20 Q. Leaving the hospital in the middle of  
21 his shift to exercise. Did you conduct any  
22 investigation into that?

23 A. Dr. Papin admitted that to me.

24 Q. Okay. That was during your -- the  
25 transcript conversation that you had with him on



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1 the 27th of January?

2 A. Yes.

3 Q. Unwillingness to help with tasks.

4 That would have been the I'm a surgeon,  
5 you're not my boss, is that what you're  
6 referencing there?

7 A. Yes.

8 Q. 1/19/17 is the next bullet point, starts  
9 with Molly Brasfield, HR director, and I met with  
10 Dr. Rick Barr who is the Associate Dean of the  
11 Graduate Medical Education; Dr. Truman Earl,  
12 Director of Medicine; Jamie Christian, Associate  
13 General Counsel; Renee Greene, Senior Education  
14 Administrator; and Bryce Ainsworth, Project  
15 Manager in the GME office.

16 What's a project manager in the GME  
17 office?

18 A. Project manager is the title but as the  
19 personal who -- she's not longer at UMMC, but at  
20 the time she was the person who coordinated all of  
21 the activities of the graduate medical education  
22 office.

23 Q. You all sat down to discuss the  
24 performance of Dr. Papin it states. You put here,  
25 Dr. Earl was adamant that he had no faith in

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1 Dr. Papin's honesty and was concerned about the  
2 liability of his continued participation in the  
3 surgery program.

4 What types of things was Dr. Earl being  
5 so adamant about at this meeting with respect to  
6 Dr. Papin?

7 A. All of the things that have previously  
8 been summarized. His lack of preparation. His  
9 unwillingness to admit that he was not always  
10 truthful, the concerns about his interaction with  
11 other people with whom he had come in contact.

12 Q. You go on to state that although he did  
13 appear to be concerned about being a surgeon, he  
14 was not concerned about what was required to get  
15 to that point. And you stated, the incident  
16 referenced above by Dr. Mahoney regarding the  
17 patient's ulcer is one of the items discussed.

18 Were there any other items discussed  
19 regarding patient safety at this meeting?

20 A. I don't recall. I don't recall.

21 Q. But the patient's ulcer that was the  
22 primary topic of discussion regarding Dr. Papin's  
23 patient safety issues?

24 MR. WHITFIELD: Object to the form, you  
25 can answer.

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1 THE WITNESS: It would have been one of  
2 the items discussed.

3 Q. (By Mr. Schmitz) Okay.

4 A. There was no transcript of that meeting  
5 and we're talking about something that occurred  
6 three years ago, so I do not have total recall of  
7 everything that was discussed.

8 Q. Fair enough. You state, after inquiring  
9 if an ICare report had been submitted and learning  
10 that it had not it was recommended; however, I  
11 followed up today and was told it still had not  
12 been done. So who did you recommend that an ICare  
13 report be submitted?

14 A. In that meeting, not to anyone specific,  
15 just in that meeting.

16 Q. Okay. And an ICare report eventually  
17 never was done on this incident?

18 A. Not to my knowledge.

19 Q. But you did recommend it to everybody  
20 who was sitting at that meeting, correct?

21 A. Yes.

22 Q. Okay.

23 A. Well, it would have been recommended  
24 only to the people who would have been involved.  
25 Some of those people would not have been involved

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1 in doing an ICare report. It would have been  
2 specifically recommended to Dr. Earl to insure  
3 that it would be done as he was the program  
4 director.

5 Q. But this was something you openly  
6 announced at this meeting where all of these  
7 people were in attendance, correct?

8 A. Yes.

9 Q. So Dr. Barr, Molly Brasfield, Jamie  
10 Christian, Renee Greene, Bryce Ainsworth,  
11 everybody would have heard you say that?

12 A. Yes.

13 Q. Okay. Then you have here 1/27/17.  
14 Dr. Papin had been contacted by phone to meet with  
15 HR for an interview and was -- 3:00 was scheduled.  
16 Dr. Papin called at 3:40 to inquire location for  
17 his 4:00 appointment, arrived shortly thereafter.  
18 Concerns above were discussed with him and he  
19 provided a response for each. He did not accept  
20 accountability for his actions and indicated that  
21 it was either someone else's fault or no one had  
22 given him clear instructions.

23 When you state that he did not accept  
24 accountability for his actions, what action was he  
25 not accepting accountability for?

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1           A.    All of the items that had been presented  
2    as stated -- summarized above, and those things  
3    that had been presented in the letter from  
4    Dr. Earl as well as other e-mails that had been  
5    reviewed were discussed with Dr. Papin.

6           Q.    Okay. Goes on to say that he indicated  
7    he had grown up in Florida, studied in Michigan,  
8    the culture in Mississippi was different. He did  
9    not think he was being rude or condescending, and  
10   once again pointed out that to him that this  
11   was -- he once again pointed that this is he's  
12   perceived and he was putting in an effort to  
13   change. He further maintained that neither  
14   Dr. Earl nor anyone else had given him any  
15   feedback that there were any concerns.

16                   What your response to the fact or what  
17   did your -- what were your thoughts in the fact  
18   that he did not perceive that he was being rude to  
19   other members of the staff or anything like that?  
20   Did you believe that, or did you believe that he  
21   was, in fact, being rude to other members of the  
22   staff?

23           A.    My perception of Dr. Papin was that he  
24    was rather cavalier. There had been quite a bit  
25    of effort put forth to try to get him to the

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1 meeting. He had agreed to the 3:00 meeting. As I  
2 said, at 3:40 when he called to inquire where the  
3 4:00 appointment was to be, he was reminded that  
4 it was for 3:00. When he came in he wanted to  
5 know how long it would take because he had a happy  
6 hour appointment.

7 So my perception was that if he were  
8 taking a cavalier approach to being called to come  
9 and speak with HR, then it did make me wonder if  
10 he were being truthful about the other things.

11 Q. So are you aware whether Dr. Papin  
12 drinks alcohol or not?

13 A. I am not.

14 Q. He mentioned to you that he was going to  
15 drink alcohol for a happy hour appointment when he  
16 showed up?

17 A. He did not say he was going to drink  
18 alcohol. He asked how long would the appointment  
19 last because he had a happy hour appointment. I  
20 did not ask any questions because that was not  
21 relevant to our discussion, but to make that kind  
22 of comment when you know you're coming for a  
23 discussion with HR just did pique my interest a  
24 bit.

25 Q. And he used the term happy hour

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1     **appointment when he said this; or did he said,**  
2     **I've got to go meet some friends at happy hour?**  
3     **What was exactly said?**

4           A.     Again, this is three years ago, but in  
5     my recollection he said happy hour appointment.

6           Q.     Okay.

7           A.     And he showed up almost 45 minutes late.

8           Q.     Right. Did you -- had you set up the  
9     meeting with him and you said 3:00 p.m.?

10          A.     The person who set it up is now  
11     deceased, but we do have e-mail confirmation where  
12     he did agree to that time.

13          Q.     Okay.

14                 MR. WHITFIELD: I'm looking at breaking  
15     in about 30 for lunch.

16                 MR. SCHMITZ: That's fine. I'm going to  
17     try to rename these exhibits and number them  
18     so that we can not get all messed up. All  
19     right, I'm sharing another exhibit with you.

20                 MR. WHITFIELD: So this is 3 again.

21                 (Exhibit 3 marked for identification.)

22                 MR. SCHMITZ: This is -- yeah.

23     Actually, I'm trying to relabel things as I  
24     go so it doesn't get all messed up.

25                 MR. WHITFIELD: I'm going to go back and

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1 change that other one to 2 on my end. Looks  
2 like the same model but different.

3 THE WITNESS: It's pertaining to --

4 MR. WHITFIELD: I think that one is  
5 different. Or wherever it went.

6 THE WITNESS: Scroll back up to the --  
7 yeah, that's from Molly.

8 MR. WHITFIELD: All right.

9 Q. (By Mr. Schmitz) We're not going to go  
10 through your summary and all that other stuff again.  
11 So you can just -- I'm only talking about the first  
12 two pages here.

13 I'm just walking around. You just tell me  
14 when you're ready.

15 A. I'm ready.

16 Q. So I want to talk to you about -- it's  
17 from Molly Brasfield and it's dated February 15,  
18 2017 at 1:32 p.m. And it's to Pamela Greenwood  
19 and then you're also copied on that. And Molly  
20 Brasfield, she's the HR director?

21 A. At that time she was. She's currently  
22 the chief HR officer.

23 Q. Okay. That's a promotion?

24 A. Yes.

25 Q. She states that HR has no scope of



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1 involvement in the termination processes unless or  
2 until a decision to dismiss is made by the  
3 program; is that correct?

4 A. Yes.

5 Q. That's an accurate statement by  
6 Ms. Brasfield.

7 A. Yes.

8 Q. This is what you were talking about  
9 earlier before, the scope of the -- our  
10 responsibility is to separate their employment  
11 since it is dependent on their admission and  
12 enrollment in an academic program, that's what  
13 we've been discussing today?

14 A. Yes.

15 Q. So the decision here was made -- the  
16 decision to dismiss here was made by the program  
17 director and the director of the GME office first,  
18 and then HR would confirm that, correct? That's  
19 basically what she's stating?

20 MR. WHITFIELD: Object to the form.

21 Once again she's not the 30(b)(6) but she can  
22 answer to her knowledge.

23 Q. (By Mr. Schmitz) That's fine.

24 A. The program director and the GME office  
25 director would determine that they no longer want

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1 a house officer in a learning program, which is  
2 the academic track of status of the person. On  
3 the employee side it would have to go through HR  
4 and ultimately through the office of employee  
5 relations in order for employment to be  
6 terminated.

7 Q. Right. But it's kind of like the  
8 chicken and the egg, right? Like, so the egg  
9 would be the program and the chicken that comes  
10 afterwards would be HR, right?

11 A. In this case. There are instances where  
12 the GME office and the program director determine  
13 that a person should not continue in a program and  
14 there is mutual agreement between those entities  
15 and the person may resign. Some of those  
16 instances never reach to the level of having HR  
17 involvement.

18 Q. Are you aware of whether Dr. Papin was  
19 ever given or asked to resign by Dr. Earl from the  
20 program?

21 A. I'm not sure. We were only informed  
22 after Dr. Earl and the GME office had taken  
23 certain steps.

24 Q. Have you ever asked Dr. Earl did you --  
25 did you ever ask Dr. Earl or have a conversation

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1     regarding Dr. Papin potentially being given the  
2     opportunity to resign?

3           A.     I did not.

4           Q.     Did you ever discuss with Dr. Earl or  
5     anybody else at the GME office regarding any other  
6     measures which could have potentially been taken  
7     in this case other than the termination of  
8     Dr. Papin?

9           A.     I did not.

10          Q.     You've been involved in other cases  
11     involving residents however where other measures  
12     were taken including suspension, remediation  
13     plans, performance improvement plans, things of  
14     that nature, where termination was then avoided?

15          A.     I can not recall.

16          Q.     Okay. On the first page there's an  
17     e-mail from Cecilia Bass to Molly Brasfield, Pam  
18     Greenwood, Johnny Gilmore, Chris Morgan, and  
19     yourself. And she says, Molly, after reviewing  
20     this it appears "tricky" to me. Let's plan to  
21     discuss. I'll check your calender and send an  
22     appointment to both you and Pat.

23                 So I'm assuming after this you met with  
24     Ms. Bass to discuss Dr. Papin's termination  
25     along --

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1 A. Yes.

2 Q. -- with Ms. Brasfield and Ms. Greenwood?

3 A. Yes.

4 Q. And when did that meeting take place?

5 A. I do not recall.

6 Q. It would have been within days of this  
7 e-mail?

8 A. Yes.

9 Q. Okay. And what was discussed at that  
10 meeting?

11 A. The same points that Ms. Greenwood had  
12 initially raised in the e-mail to me. And in that  
13 meeting Molly Brasfield reiterated everything that  
14 was included in her February 15 e-mail, and there  
15 was just discussion about where the obligations  
16 and responsibilities of GME office and the  
17 programs are in relation to employment.

18 As I said, sometimes those relationships  
19 can blur because even though the house officer is  
20 an employee, he is ultimately in a training  
21 program and all of that is guided by the program  
22 direct and the GME office. And that was why in  
23 Ms. Brasfield's e-mail she indicated that those  
24 issues can be tricky.

25 Q. And you previously testified or is it

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1 correct that you're not really sure about what the  
2 requirements for discipline within a program of a  
3 trainee actually require or don't require,  
4 correct?

5 A. I'm not aware of whether or not  
6 discipline is even included in their guidelines.

7 Q. Okay. So you don't have any knowledge  
8 about what --

9 A. I do not.

10 Q. -- to do? Okay. Without having  
11 knowledge about what the program is supposed to do  
12 or not do, how can you from an HR perspective from  
13 the HR track that you've been discussing,  
14 recommend and confirm a termination when you're  
15 not even sure whether the program has dotted all  
16 their Ts and, you know, dotted the Is and crossed  
17 all the Ts?

18 A. The recommendation that I made was based  
19 on Dr. Papin's employee status, and I felt certain  
20 based on the documentation that Dr. Earl had  
21 provided, the meeting with Dr. Barr and Dr. Earl  
22 that there were enough concerns that termination  
23 could be upheld.

24 Q. Go to the next exhibit.

25 (Exhibit 4 marked for identification.)

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1 MR. WHITFIELD: We got it up.

2 Q. (By Mr. Schmitz) You just let me know  
3 whenever you're ready.

4 A. I'm ready.

5 Q. On the first page here you have GME  
6 Committee Hearings for House Officers since 2014.  
7 Do you see where it states that?

8 It states that there is a -- there was  
9 an African American, Resident 78, who appealed his  
10 nonrenewal of contract in 2015. What is the  
11 difference between a termination and a nonrenewal  
12 of contract?

13 A. Contracts are given for one year at a  
14 time and there would be information that would  
15 deem it not prudent to continue with that after  
16 the end of that contract, and persons will need to  
17 be notified at least 30 days in advance. It  
18 depends on -- there's a lot of information that  
19 would depend on what their status is as to how  
20 much advanced notice they would be given, but it  
21 would need to be at least a 30 day notice. And  
22 they would be told that their contract would not  
23 be renewed. That would not be viewed in the same  
24 light as a termination.

25 Q. Did you ever discuss not renewing

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1 Dr. Papin's contract with Dr. Earl rather than  
2 terminating his employment?

3 A. I did not. Anytime there's a nonrenewal  
4 of a contract all of those items would be  
5 conducted by and through the GME office.

6 And, again, there is a distinct line of  
7 demarcation with what occurs from the GME  
8 standpoint and what occurs from the HR employee  
9 standpoint. So there are some actions by the GME  
10 area that are never involving HR.

11 Q. Do you recall with this resident why  
12 their contract was not renewed, Resident 78?

13 A. That would not have been one I was  
14 involved in.

15 Q. The African American resident, Resident  
16 79, appealed academic probation. Probation was  
17 upheld in 2017. This was around the same time as  
18 Dr. Papin was terminated. What were the  
19 circumstances of Resident 79 being put on  
20 probation?

21 A. I was not involved in that one.

22 Q. Were you involved in any of these other  
23 than Dr. Papin?

24 A. I was not.

25 Q. Who was? Who would have been involved

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1 in these things?

2 A. There are multiple HR business partners  
3 and so it would depend on what department that  
4 person would have been in as to who the business  
5 partner was that was involved in it.

6 Q. Okay.

7 A. But, again, if it were a determination  
8 solely by GME, there would not have been HR  
9 involvement in that decision making.

10 Q. The next page is for surgical residents.  
11 Do you see that -- now, you do oversee the  
12 surgical residents, correct, from an HR  
13 perspective at least?

14 A. I do consult with that department, yes.

15 Q. Okay. The first one states ethnicity  
16 was -- he was of Asian descent, Resident 23, had  
17 a -- type of problem, anger management. Do you  
18 recall that resident?

19 A. Again, if these were handled within the  
20 GME area HR would not have been involved.

21 Q. Is there a reason why Resident 23 with  
22 anger management issues would have never gotten  
23 escalated to HR at all?

24 A. If in the decision and discretion of the  
25 GME office it was something that they would



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1 handle, it would not come to HR.

2 Q. Wasn't Dr. Papin also accused of  
3 something similar to that, having some type of  
4 anger management issue with respect to his  
5 interaction with Nurse Practitioner Stavins, but  
6 yet his issue was escalated to HR for termination,  
7 and this resident got to just have a meeting with  
8 his mentors and program directors? In fact, this  
9 resident was promoted from a preliminary resident  
10 to a categorical resident after his second year?

11 A. I can not respond to that.

12 Q. Okay. Can you explain the differential  
13 treatment with respect to those two residents?

14 A. I can not. I don't know how the GME  
15 operated in those instances.

16 Q. Okay. Resident 37, there was an  
17 inappropriate sexual conversation. Did you have  
18 any involvement in that?

19 A. I did not.

20 Q. So, again, here, UMMC, there's  
21 inappropriate sexual conversation and HR is not  
22 getting involved to investigate a sexual  
23 harassment sexual conversation between employees  
24 and a resident?

25 A. I don't know the specifics. I don't

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1 know what GME's or the program director's  
2 determination was in that instance.

3 Q. So it states here, the result was there  
4 was -- this person was just warned by the program  
5 director probably then to knock it off. Again,  
6 can you explain the differential treatment between  
7 this white resident and Dr. Papin who is also  
8 accused of having or trying to be alone and being  
9 in -- making another resident or medical student I  
10 believe, a female medical student feel incredibly  
11 uncomfortable? That was escalated to HR though,  
12 but in this case this was kept within the  
13 department. Can you explain that differential  
14 treatment?

15 A. I can not.

16 Q. Resident 44, were you involved at all  
17 with that where the resident chose to resign due  
18 to his medical -- lack of medical knowledge,  
19 clinical abilities?

20 A. I was not.

21 Q. Okay. Did you review any of the things  
22 before today regarding these residents and their  
23 numbers to get a familiarization for who these  
24 folks were?

25 MR. SCHMITZ: Tommy?

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1 MR. WHITFIELD: She doesn't -- I don't  
2 have my list in here. I wasn't expecting the  
3 numbers today for her for these people, so I  
4 don't have it in here. I can get it and --  
5 print it out and get it. We can go back to  
6 this after lunch if you want.

7 MR. SCHMITZ: Well, I'm just trying  
8 to -- it's hard because I don't have the  
9 numbers -- I only have numbers and I don't  
10 have names, so I don't know who she would  
11 have been involved with or not in terms of  
12 the folks that were provided to us on these  
13 lists?

14 MR. WHITFIELD: I know you don't want my  
15 knowledge, but I don't think she had any  
16 involvement in any of these on the list  
17 except for Papin.

18 MR. SCHMITZ: I know she did on page 3,  
19 she did mention earlier the Title IX.

20 MR. WHITFIELD: I was talking about the  
21 first two pages. I was talking about the  
22 first two pages.

23 MR. SCHMITZ: All right.

24 MR. WHITFIELD: Because the second page  
25 is the HR page, and we do know who -- she

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1 knows who Resident 76 is.

2 MR. SCHMITZ: Okay. All right.

3 Q. (By Mr. Schmitz) Let's go to page 3 then  
4 where it says Human Resources House Officer Cases  
5 since January 2014.

6 The first four, 73, 74 and 75 -- or the  
7 first four boxes. It says, violation of the  
8 compliance policy. That's where the people were  
9 looking at the information that they didn't have a  
10 need to be looking at. They got suspended for 10  
11 days for that. Is that what that is?

12 A. Yes.

13 Q. What is FWW?

14 A. Final written warning.

15 Q. So all of these folks violated a policy  
16 and they were all white and they only received a  
17 final written warning and 10 day suspension as  
18 opposed to Dr. Papin; is that correct?

19 A. All of those situations where there was  
20 a violation of compliance policy, those incidents  
21 were reviewed and investigated by the Office of  
22 Compliance. It was the Office of Compliance that  
23 determined the nature of the infraction and what  
24 the discipline should be. HR's only involvement  
25 in that was to present what the discipline was.

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1 Q. Okay. All right. Resident 76, you were  
2 involved directly in that case, correct?

3 A. In the initial investigations, yes.

4 Q. Tell me about your investigation into  
5 that case?

6 A. There were concerns brought to HR by an  
7 interested third party, and as a result of that --

8 Q. Can you be more specific who brought it  
9 to your attention?

10 MR. WHITFIELD: Hold on. Before we -- I  
11 want to make sure we protect these people's  
12 privacy.

13 Q. (By Mr. Schmitz) You don't need to say  
14 their names. You can just say it was like another  
15 resident or it was another, you know.

16 A. It was a nurse.

17 Q. It was a nurse, okay. That's fine.

18 A. The people involved in that particular  
19 situation were either all nurses and nurse  
20 practitioners. The subject who was accused was  
21 the only one who was a house officer.

22 Q. Okay.

23 A. There were some concerns brought forth  
24 that he made unwanted inappropriate actions toward  
25 these people. Also there was information provided

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1 that he offered illegal drugs to several people  
2 and that was what prompted the investigations in  
3 that case.

4 My involvement in that was to interview  
5 the nurse who brought forth the allegation. And  
6 then after the person who was considered the  
7 potential victim was identified, she was  
8 interviewed. Some of the interaction occurred at  
9 a party where several of these people were, so  
10 they were each interviewed. Then when it was  
11 determined that it was a Title IX case my  
12 involvement ended at that point.

13 Q. Okay. So when these allegations of  
14 sexual misconduct or unwanted advances and stuff  
15 like that, you did conduct interviews in that  
16 case, correct?

17 A. The initial --

18 Q. You personally did that?

19 A. Yes.

20 Q. And then you proceeded to identify the  
21 victims of this and interviewed those folks as  
22 well?

23 A. Yes.

24 Q. But in this case when those -- when  
25 allegations of potential unwanted advances or

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1     wanting to be alone with somebody, you did not  
2     conduct any interviews whatsoever?

3           A.     I did not.

4           Q.     Why the difference in treatment between  
5     what happened to Resident 76 who was white and  
6     what happened to Dr. Papin here who was  
7     interviewed -- who did not have any interviews  
8     conducted regarding the allegations to determine  
9     the validity or veracity of those allegations?

10          A.     There was one incident referred -- in  
11     regard to Dr. Papin that did not, in my  
12     estimation, rise to the level of sexual harassment  
13     and specifically as it relates to Resident 76.  
14     That was one incident in the totality of all of  
15     the acts that had been alleged by Dr. Papin. And  
16     it was felt that the documentation was conclusive  
17     enough to warrant approval of the department's  
18     recommendation. Albeit from separating out that  
19     one incident referred to him wanting to be alone  
20     with a student.

21          Q.     So in Resident 76's case, you mentioned  
22     before that there were multiple nurses involved,  
23     correct?

24          A.     Yes.

25          Q.     There were multiple nurse practitioners

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1 involved, correct?

2 A. At least one or two. I can't recall  
3 specifically.

4 Q. Sure. And there were unwanted advances  
5 made against several folks; is that correct?

6 A. Yes.

7 Q. And then -- so initially these reports  
8 came in from a nurse regarding the involvement of  
9 all these people, right?

10 A. The nurse involving Resident 76 and one  
11 person. During the course of that interview  
12 others were identified.

13 Q. Okay. So seeing how helpful interviews  
14 can be in these types of situations to uncover  
15 whether documentation is needed or whether  
16 documentation is sufficient, shouldn't you have  
17 also interviewed the folks that were allegedly,  
18 potentially being harassed with Dr. Papin to see  
19 if there was anything going on there whatsoever?

20 A. Again, the totality of everything else  
21 that had been alleged against Dr. Papin and the  
22 length of time that it had occurred, that one  
23 incident did not seem to take precedent over the  
24 other things that were provided by Dr. Earl.

25 Q. Did you interview or investigate any of



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1 the totality of the other incidents that were  
2 referenced to you or did you just take everything  
3 as being -- all these -- what were essentially  
4 unsubstantiated rumors to be as true and present  
5 them as fact?

6 A. I reviewed the evaluations. I reviewed  
7 the summary of the information that Dr. Earl  
8 provided to Dr. Papin that he signed  
9 acknowledging. And it was determined that those  
10 things were strong enough to support the  
11 department's recommendation for termination.

12 Q. If Dr. Papin had not signed that  
13 document he would have been immediately terminated  
14 and had no chance of remaining in the program,  
15 correct?

16 A. I can't attest to that.

17 Q. Well, when he was presented that  
18 document that he signed it was under the guise  
19 that if he signed the document and he agreed to  
20 remediate these alleged issues that were brought  
21 forth against him that he would have 60 days to  
22 remediate himself, correct?

23 A. I was not in that meeting so I do not  
24 know how that occurred, but Dr. Earl did later  
25 indicate that he thought that he needed to give

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1 Dr. Papin 60 days. Dr. 1Earl provided that  
2 information and met with Dr. Papin prior to HR  
3 involvement.

4 Q. What's the basis for Dr. Earl thinking  
5 that he needed to give -- he needed to give  
6 Dr. Papin 60 days to remediate?

7 A. I don't know. I would presume that that  
8 was thought to be a part of the GME policy. I'm  
9 not sure.

10 Q. Okay.

11 MR. WHITFIELD: Greg, we're approaching  
12 the hour.

13 MR. SCHMITZ: Sure. I'm going to be --  
14 I'm either done right now and we can stop or  
15 I have like just a couple short more  
16 questions. I just want to get through this  
17 exhibit and then we can --

18 MR. WHITFIELD: It's up to you.

19 MR. SCHMITZ: Yeah. I'm getting hungry  
20 too.

21 MR. WHITFIELD: I was going to say,  
22 look, hunger, you know, that's my queue.

23 Q. (By Mr. Schmitz) With respect to Resident  
24 76 there were -- so there was multiple things going  
25 on in that case, right, there was illegal drug

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1 use -- alleged illegal drug use, there was alleged  
2 sexual misconduct, there was alleged sexual assault  
3 even, so there were multiple layers of the  
4 circumstances that would have lead to that  
5 resident's termination, correct?

6 A. Yes.

7 Q. And in Dr. Papin's case, again, there  
8 were multiple layers involved in his termination  
9 whether that would have been truthfulness, or his  
10 alleged untruthfulness, or his alleged, you know,  
11 being a danger to patients or, you know, his just  
12 as you put it, his attitude issues that were  
13 talking; is that correct?

14 A. Yes.

15 Q. But yet in the case of Resident 76 there  
16 was a full investigation and interviews of  
17 everybody involved by the human resources  
18 department including yourself in that case,  
19 correct?

20 A. Yes.

21 Q. But in Dr. Papin's case there was no  
22 investigation into any of the things that were  
23 brought forth from the GME office, I'm assuming  
24 the GME office also brought forth some of these  
25 allegations as well to you to review and approve

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1 the termination for Resident 76, correct?

2 A. No.

3 Q. So Dr. Earl or GME or nobody, this just  
4 came straight to HR first?

5 A. It came to HR through a report by a  
6 nurse who was the co-worker of the person who had  
7 the concerns. During the course of that there was  
8 discussion with the program director and the GME  
9 office but not as the initiator.

10 Q. Okay. And so in that case, again, there  
11 was a totality of circumstances with respect to  
12 why Resident 76 was terminated, correct?

13 A. Yes.

14 Q. And there was a totality of  
15 circumstances for why Dr. Papin was terminated as  
16 well, correct?

17 A. Yes.

18 Q. But you had one Resident 76 got a full  
19 investigation and Dr. Papin got not even a single  
20 interview done by HR regarding any of the  
21 allegations that were brought against him,  
22 correct?

23 MR. WHITFIELD: Object to the form.

24 THE WITNESS: It was determined that the  
25 program director and the GME office had done

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1 due diligence. That's their responsibility  
2 when they're --

3 Q. (By Mr. Schmitz) I'm not asking about --  
4 I'm not asking about the GME or what they did. I'm  
5 asking what you did. I'm -- what -- with re --  
6 because you took action with Resident 76. You  
7 didn't take any actions or do any interviews or  
8 anything with respect to Dr. Papin, correct?

9 MR. WHITFIELD: Object to the form.

10 THE WITNESS: That is not correct.

11 Q. (By Mr. Schmitz) Okay.

12 A. There was a review of all of the  
13 information that Dr. Earl, as the program  
14 director, had done. It was presumed that  
15 everything that he had done and presented was  
16 complete enough to support the recommendation.  
17 There was an interview with Dr. Papin when he did  
18 not deny the things that had occurred. And as a  
19 result of the interview with him, as well as a  
20 review of the various e-mails, evaluations, the  
21 meeting with Dr. Papin by Dr. Earl, it was  
22 determined that those were sufficient to warrant  
23 support of the department's recommendation for  
24 termination.

25 Q. Dr. Earl, that was his first year being

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1 the program director of the general surgery  
2 department, correct?

3 A. I don't know.

4 Q. So you don't know -- who was the surgery  
5 director before him?

6 A. I don't know.

7 Q. Don't you correspond with these folks  
8 regularly as you oversee their department?

9 A. I don't know.

10 Q. So you have no idea how long Dr. Earl  
11 had been the program director?

12 A. I do not. I know he is a physician. He  
13 was credentialed. It was determined that he was  
14 sufficiently qualified to be in that role.

15 Q. Does he have any HR background or  
16 employee discipline, or he's a surgeon background?

17 A. He's a surgeon.

18 Q. Okay. So as an HR professional do you  
19 think that a person who operates on other human  
20 beings would have knowledge and sufficient  
21 training on how to conduct an employee discipline  
22 termination? Didn't you have to receive a  
23 certification to be a professional HR person to do  
24 that same thing?

25 A. I did receive certification for my HR

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1 involvement, but anyone who is in a position of  
2 leadership also has certain responsibility and  
3 training that they must undergo.

4 Q. But didn't you have a responsibility to  
5 conduct at least a single interview of your own  
6 knowledge just to verify -- do your own due  
7 diligence, wouldn't you think your own due  
8 diligence in this case should have included  
9 reaching out to at least one of the people who  
10 made these allegations against Dr. Papin instead  
11 of just taking these hearsay rumors to be as fact?

12 A. I did not.

13 Q. And you think that that's reasonable?  
14 This is a personal question, you think that that  
15 was a reasonable course of action to take?

16 A. In this situation, yes.

17 Q. Why? Why was it reasonable to  
18 investigate Resident 76, do a whole federal case  
19 and call everybody in and take notes and for you  
20 to speak personally with everybody, but it was  
21 unreasonable to do it in Dr. Papin's case?

22 A. I spoke with Dr. Papin. I reviewed his  
23 evaluations. I reviewed the e-mails that had been  
24 provided by the department. I reviewed the  
25 information that Dr. Earl went over with

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1 Dr. Papin. It was determined that that was  
2 sufficient to warrant recommendation acceptance  
3 from what the department had provided.

4 Q. All right. Let's take a lunch.

5 (A brief recess was taken.)

6 (Exhibit 5 marked for identification.)

7 Q. (By Mr. Schmitz) Ready?

8 A. We're ready.

9 Q. Okay. Starting at the bottom of the  
10 exhibit, page two, I'll just go in order because  
11 that's the earliest first e-mail, the e-mail from  
12 Rick Barr to yourself, Molly, and others within  
13 the HR Department including also Dr. Earl.

14 The first question is who is Louise  
15 Dove?

16 A. Louise was Dr. Barr's administrative  
17 support person.

18 Q. Okay. So Dr. Barr is reaching out to  
19 you all at HR. Is this typical whenever they have  
20 an issue with residents where Dr. Barr will reach  
21 out to guys in HR to consult with you regarding  
22 these matters, types of matters?

23 A. If they feel there is an HR involvement,  
24 yes.

25 Q. Okay. It states that the issues are



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1 serious enough, and also including serious patient  
2 safety outcomes where return to work is not  
3 desired. Mark has an extensive paper trail.

4 And, again, the documents that were  
5 provided to you by Dr. Earl that you discussed  
6 today, can you just quickly run through those for  
7 me?

8 A. There were several evaluations of  
9 Dr. Papin at various times in his time here.  
10 There were e-mails that had come from his  
11 colleagues and there was a letter that Dr. Earl  
12 had provided in a meeting to Dr. Papin with  
13 Dr. Papin.

14 Q. Okay. And that was the extent of what  
15 was sent to you regarding Dr. Papin?

16 A. Yes.

17 Q. I want to go to the first page of the  
18 second e-mail from the top, it's from Earl to  
19 Ms. Brasfield January 13 at 12:48 p.m.?

20 A. Yes.

21 Q. Okay. He states that -- after the first  
22 sentence, I think there is a serious patient  
23 safety issue here and I'm uncomfortable with him  
24 taking care of patients. I'm including the letter  
25 that he had 60 days to show improvement because I

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1 thought I was required to give him the opportunity  
2 to improve.

3 What would have given Dr. Earl the  
4 impression or are you aware of anything at UMMC  
5 procedures and policy wise that would have  
6 required Dr. Earl to have given Dr. Papin 60 days  
7 to improve?

8 A. I am not. I can only presume that he  
9 must have thought it was something in keeping with  
10 the GME requirements.

11 Q. Okay. Later down in this same e-mail he  
12 says, please let me know if there's any other  
13 documentation, evaluations, scores and milestones,  
14 et cetera that you can provide.

15 Do you know whether evaluations, scores  
16 and milestones or anything like that were ever  
17 provided to you to review?

18 A. There were evaluations but I'm not  
19 familiar with milestones.

20 Q. Okay. Going to the next exhibit.

21 MR. WHITFIELD: Out of curiosity, how  
22 many have you got today?

23 MR. SCHMITZ: You don't want to know,  
24 Tommy. There's only one that's going to take  
25 a long time but I've got about 20, 21, 22 of

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1           them.

2           MR. WHITFIELD: Total?

3           MR. SCHMITZ: Yeah.

4           MR. WHITFIELD: Okay. We were at like  
5           19 with Renee the other day.

6           MR. SCHMITZ: Yeah, this would be -- a  
7           lot of these are quick like this one, a lot  
8           of these are short.

9           (Exhibit 6 marked for identification.)

10          Q.    (By Mr. Schmitz) You ready?

11          A.    Yes, sir.

12          Q.    All right. So this is an e-mail here at  
13          the top -- well, actually let me see. The e-mail  
14          at the bottom of page one from Joyce Olutade?

15          A.    Olutade.

16          Q.    Olutade to Bryce Ainsworth that  
17          Dr. Papin passed his drug screen and blood ethanol  
18          screen.

19                Now, let me ask you this. If a resident  
20          does fail and were to happen to have some type of  
21          substance in their system, is that immediate  
22          grounds for termination? Is that automatic  
23          termination at UMMC?

24          A.    It is not necessarily, no.

25          Q.    Okay. Is it depending on the substance?

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1           A.    It depends on several factors.   When  
2   there is a suspicion of an illegal substance the  
3   process calls for the supervisor to -- there's a  
4   checklist and the supervisor goes over that  
5   checklist, then the employee is given the  
6   opportunity to consent to being tested.

7                    If the employee does not consent then  
8   there is immediate suspension followed by  
9   termination.

10                   If the employee consents to being tested  
11   there is paid administrative leave that they're  
12   paid on pending the results of the test.   If the  
13   results of the test are positive then there may be  
14   rehabilitation through the benefits program for  
15   that employee or some other program, or there may  
16   be termination.

17           Q.    Okay.   So depending on the circumstances  
18   some people would be allowed to go to some type of  
19   rehabilitation program to break a potential  
20   addiction problem or something like that and  
21   others are terminated just depending on the  
22   circumstances?

23           A.    Yes.

24           Q.    Okay.   All right.   Going back up to the  
25   top e-mail -- well, I guess Dr. Earl had sent over

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1 some language to Molly Brasfield and to you all to  
2 review that he was going to send to Dr. Papin in  
3 this e-mail. Is this common, is this part of HR's  
4 involvement in these types of incidences, you  
5 know, when program directors are communicating  
6 with their residents regarding sort of, I guess,  
7 HR employment issues?

8 A. Ms. Brasfield sent the language to  
9 Dr. Earl. This was a different situation in that  
10 the department had determined a need for the drug  
11 screening but concomitant with that were the  
12 issues on professionalism and performance. And  
13 there had been communication via telephone between  
14 Ms. Brasfield and Dr. Earl, and that was where  
15 they had discussed the overall concerns with  
16 Dr. Papin.

17 Because his drug screen was negative,  
18 typically he would have been brought back on  
19 campus and resumed his regular scheduling. But  
20 because of those other concerns that's why  
21 Ms. Brasfield recommended the language to tell him  
22 that he would be contacted for further  
23 investigation rather than being immediately  
24 returned to campus.

25 Q. Okay. Next exhibit.

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1 (Exhibit 7 marked for identification.)

2 Q. I only have one question about this.

3 Are you ready?

4 A. Yes.

5 Q. All right. Just let me know whenever  
6 you're ready because I'm not --

7 A. Sure.

8 Q. I don't want to -- all right. So this  
9 is an e-mail from Ms. Brasfield to you and she's  
10 delegating the task of setting up an interview to  
11 interview Dr. Papin. Is that typically your role  
12 in HR, are you the one who typically handles the  
13 interviews?

14 A. If it's a department -- if it's a  
15 department that I provide support to, yes.

16 MR. SCHMITZ: Next. It's there, Tommy,  
17 number 8.

18 (Exhibit 8 marked for identification.)

19 THE WITNESS: I'm ready.

20 Q. (By Mr. Schmitz) This is an e-mail from  
21 you to Brenda Traxler regarding an interview that  
22 you're going to sit -- you wanted her to sit in, and  
23 you said you wanted to have a meeting to fill her in  
24 on the specifics. Can you tell me about that  
25 meeting to fill her in on specifics, what you told

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1 her and what about the situation that was happening?

2 A. The HR process is to always have two  
3 employees sitting in on any interviews that we  
4 would have do with the employees. And depending  
5 on who the HR business partner was who supported  
6 the department it would always be that person's  
7 responsibility for the interview.

8 If there was not another HR business  
9 partner available, Brenda Traxler, who at that  
10 time was an associate HR business partner, would  
11 be asked to sit in on the interviews. And prior  
12 to the interview she would be given specifics of  
13 what the case entailed. She also had the liberty  
14 to ask questions in the interview.

15 Q. The meeting that you had before the  
16 interview, what was your discussion with  
17 Ms. Traxler?

18 A. She would have been given a copy. She  
19 would have been shown a copy of the information  
20 that we had.

21 Q. And those are the documents you told me  
22 about before?

23 A. Yes.

24 Q. Did you give her any other details  
25 regarding the situation and your thoughts or

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1       **impressions of everything going on?**

2           A.     No.

3           Q.     Moving right along here.   Number 9.

4                     (Exhibit 9 marked for identification.)

5           Q.     Who is Bryce Ainsworth?

6           A.     She's no longer employed with UMMC but  
7     at the time she was the person who managed the GME  
8     office.

9           Q.     So it would be part of -- because you're  
10    asking the GME office for the ICare report, that  
11    would typically be something that would be handled  
12    within the GME office if there were ICare report  
13    issues about a resident or something like that?

14          A.     Not necessarily but because there had  
15    been a meeting with Dr. Barr, who was the director  
16    of the GME office, he would have been either in  
17    possession of the ICare report, or Dr. Earl would  
18    have discussed that with him.

19                 Bryce was in attendance at the meeting,  
20    the initial meeting that was held with Dr. Barr  
21    and Dr. Earl when the question of whether or not  
22    an ICare report existed was raised.

23          Q.     Okay.   That makes sense.   All right.  
24    Exhibit 10.

25                     (Exhibit 10 marked for identification.)



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1           Q.    This is just the responses to your  
2   question from the last e-mail.

3           A.    I'm ready.

4           Q.    Okay.  So Bryce sent this -- it looks  
5   like Bryce sent your e-mail with your inquiry  
6   regarding the ICare report over to Dr. Earl and  
7   Ms. Shirley Schlessinger.  Who is Shirley  
8   Schlessinger?

9           A.    Dr. Schlessinger was previously the GME  
10   office director, and at that time she still had  
11   some peripheral involvement.

12          Q.    Is there any reason why you didn't --  
13   after Dr. Earl responded that there were no ICare  
14   reports for that, is there any reason why you  
15   didn't tell Dr. Earl to go ahead and submit one of  
16   those?

17          A.    No, there wasn't.

18          Q.    But you had previously told, or  
19   recommended at least, that the prior meeting that  
20   you had with Dr. Earl, Barr, and other folks that  
21   it was recommended that he fill out an ICare  
22   report, correct?

23          A.    Yes.

24          Q.    And, again, you said after an ICare  
25   report is filled out if it's about a patient care

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1     issue then that patient care issue would be  
2     flipped back to the department so that someone, a  
3     committee within the department could review the  
4     medical procedures that were followed and make a  
5     determination on, you know, whether there was a  
6     potential issue of care provided?

7             MR. WHITFIELD: Object to the form.

8             She's not our 30(b)(6) on policies. She can  
9             answer to the best of her knowledge.

10            THE WITNESS: The ICare report goes to a  
11            specific database, it does not go to the  
12            department. When that ICare report goes to  
13            the area, and I'm not sure the name of the  
14            area responsible, but when the ICare report  
15            goes to that specific area that is where the  
16            determination is made for the committee's  
17            involvement.

18            If there is no ICare report submitted  
19            and if there are concerns brought within the  
20            department then the department would be  
21            responsible for investigating as was the case  
22            with Dr. Papin. ICare reports are not  
23            mandatory.

24            Q.     (By Mr. Schmitz) I guess my question is  
25            do ICare reports typically trigger other things to

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1    happen after -- I mean, what happens once it's -- I  
2    mean, who is responsible for looking those things  
3    over and making sure that it just doesn't fall  
4    through the cracks and nobody cares?

5           A.    There's a specific department that I  
6    can't -- I don't know the name of that area where  
7    ICare reports are maintained, and it is that  
8    area's responsibility to determine what course of  
9    action will occur.

10          Q.    Kind of like risk management or  
11    something like that?

12          A.    I can not be certain of the name of the  
13    area. It may be risk management but I'm not sure.

14          Q.    Okay. So somebody does eventually  
15    review all the ICare reports that are submitted,  
16    somebody is looking at those things, right?

17          A.    Yes. There is a specific area with  
18    responsibility for those.

19          Q.    All right. Next Exhibit 11.

20                   (Exhibit 11 marked for identification.)?

21          A.    I'm ready.

22          Q.    (By Mr. Schmitz) Okay. Starting at the  
23    bottom there's an e-mail from Dr. Earl February 14th  
24    at 12:51 p.m. Do you see where I'm talking about?

25          A.    Yes.

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1 Q. That e-mail was sent to you, correct?

2 A. Yes.

3 Q. Okay. In that Dr. Earl is -- says, Pat,  
4 need some feedback on this as I need to fill his  
5 slot before February 22nd, that February 22nd is  
6 what eight days after he sent -- or eight days  
7 later after he sent this e-mail. What happens on  
8 February 22nd that he needed to fill that slot?

9 A. I'm not familiar with the process. I  
10 can only presume it has something to do with when  
11 medical students match and when they are getting  
12 assignments for the year that begins on July 1st.

13 Q. Okay. So is it your understanding that  
14 he's basically promising you to say, hey, I need  
15 an answer from you guys because I need to figure  
16 out what I'm going to do with Dr. Papin's slot?

17 A. He's inquiring about the status of his  
18 request for termination.

19 Q. Okay. So then, again, he follows up  
20 with you on February 20th at 9:15 a.m. saying that  
21 he had heard nothing and if he is not to be  
22 renewed in July I have to fill his slot created by  
23 his absence. This must be done by February 22nd  
24 due to National Residence Match Program. You were  
25 correct. So I need to know ASAP and I have

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1 someone ready to fill his slot but she must  
2 withdraw from the match no later than the 22nd.  
3 If I hear nothing I will be forced to assume he  
4 will not be renewed and fill his residency in  
5 which case he will not have a job here in July no  
6 matter what HR findings are. Please help.

7 What does he mean if he fills his  
8 residency slot, so regardless of HR findings or  
9 whatever y'all were doing with respect to  
10 Dr. Papin, he was going to fill his slot one way  
11 or the other on the 22nd; is that correct?

12 A. I can only presume that he meant that he  
13 would take advantage of the academic avenue to  
14 remove him from the program, but I can not attest  
15 to that with certainty.

16 Q. So is it your testimony here today that  
17 Dr. Papin was only terminated for HR related  
18 reasons, he was not terminated for academic  
19 reasons, or is it a blur?

20 MR. WHITFIELD: Object to the form.

21 THE WITNESS: His employment was  
22 terminated. He was terminated as an employee  
23 of UMMC.

24 Q. (By Mr. Schmitz) By HR?

25 A. The ultimate decision was rendered by

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1 the employee relations director.

2 Q. But his participation and membership in  
3 the residency program was terminated by the  
4 program, correct? That's what Dr. Earl was  
5 implying here, correct?

6 MR. WHITFIELD: Object to the form.

7 THE WITNESS: I am not sure what the  
8 process was for his removal from the program  
9 as a result of his employee termination. I  
10 don't know whether or not there was some  
11 specific document or some specific procedure  
12 that had to occur. He was terminated as an  
13 employee.

14 Q. (By Mr. Schmitz) Right. But he was  
15 terminated as an employee, my understanding, I'm  
16 just trying to -- he was terminated as an employee  
17 because he was no longer going to be part of the  
18 residency program and that decision was made by  
19 Dr. Earl, correct?

20 A. He was terminated as an employee based  
21 on his performance and actions in the program.

22 Q. Again, earlier you testified that  
23 Dr. Earl and Dr. Barr came to you stating that  
24 they wanted to terminate Dr. Papin, correct?

25 A. That they no longer wanted him to

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1 continue, yes.

2 Q. Okay. So the recommendation for  
3 termination for Dr. Papin came from Dr. Barr and  
4 Dr. Earl, correct?

5 A. Yes.

6 Q. Initially so?

7 A. Yes.

8 Q. And then HR reviewed their  
9 recommendation and the documents provided and then  
10 confirmed that termination, correct?

11 A. Yes.

12 Q. So on February 20 at 9:15 a.m. you  
13 received this e-mail from Dr. Earl copying  
14 Dr. Barr asking for what's going on, he only has  
15 two days to make this decision. At 3:40 p.m. on  
16 the same day you reply back and state that the  
17 employee relations has approved the termination of  
18 Dr. Papin. What happened on that day between 9:15  
19 and 3:40 that caused his termination to be  
20 approved at that point in time?

21 A. When a recommendation is received from a  
22 department for termination of an employee, as an  
23 HR business partner I summarize everything and  
24 submit it to employee relations where all of the  
25 authorization must be given. It is not uncommon

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1 for a department to contact me to ask for the  
2 status.

3 Typically I would e-mail or make a phone  
4 call to employee relations and relay that request  
5 to them that the department is inquiring about the  
6 status. I can only presume that after I received  
7 the e-mail from Dr. Earl I would have made a phone  
8 call to either Pamela Greenwood or Cecilia Bass to  
9 inquire about the status of the request for  
10 Dr. Papin. And because I do not have an e-mail  
11 here listed, again, I can only presume that there  
12 must have been a phone call where they gave me the  
13 authorization.

14 Q. And did you also -- do you recall if you  
15 alerted them that Dr. Earl was stating that  
16 basically he only had like a day or two to make  
17 this decision and that he needed an answer before  
18 the 22nd?

19 A. I do not recall.

20 Q. Do you recall feeling pressured at all  
21 to make your decision due to his e-mails stating  
22 that he needed to fill that slot by the 22nd?

23 A. I did not.

24 Q. You didn't feel any pressure at all, no  
25 sense of urgency from Dr. Earl's e-mail



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1     **whatsoever?**

2           A.     I would not call it a sense of urgency  
3     because I understand the role that employee  
4     relations has. There is a very small department  
5     that is responsibility for the entire institution  
6     and it would just depend on how many other cases  
7     they had as to how long it would take them to  
8     render a decision.

9           So it is not uncommon for me to have  
10    sent them a request at the time that I sent that  
11    and then it take several weeks before there is a  
12    response.

13           So I did not necessarily sense or  
14    consider Dr. Earl's inquire to the status a sense  
15    of urgency that was presented to employee  
16    relations.

17           Q.     So him stating this must be done by  
18    February 22nd due to the National Match Program  
19    requirement. I need to know ASAP and I have  
20    someone ready to fill his slot but she also must  
21    withdraw from the match no later than February  
22    22nd. You didn't relay that to whoever you called  
23    over at employee relations that Dr. Earl had these  
24    sort of deadlines coming up with respect to  
25    Papin's slot?

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1           A.    I would have given them that information  
2    at my initial inquiry of the status of their  
3    review of the case.  When Dr. Earl initially asked  
4    about it I would have given them that information.

5           But, again, because they represent the  
6    entire institution I can not determine for them  
7    how long it would take them to review how many  
8    other cases they had or when they would get back  
9    to me with a status on a particular case that I  
10   have sent to them.

11           There are 11 or 12 other HR business  
12   partners who also must send things through that  
13   office for resolution.

14           Q.    Okay.  So do you recall in this specific  
15   scenario of letting them know that, hey, I just --  
16   whoever you called afterwards, hey, that Dr. Earl  
17   is inquiring.  He said that, you know, the match  
18   program is on -- did you remind them of that fact  
19   that basically there was only a few days left to  
20   do this?

21           A.    I can only presume that I would have  
22   given that to them the first time Dr. Earl  
23   inquired.  I do not recall from three years ago  
24   whether or not I made a second phone call with  
25   that same information.

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1 Q. Fair enough.

2 (Exhibit 12 marked for identification.)

3 Q. Exhibit 12, same e-mail only different  
4 at the top.

5 A. I'm ready.

6 Q. So this would have been your reaching  
7 out to the team that you just referenced, correct?

8 A. After a phone call, yes.

9 Q. Okay. And who is Johnny Gilmore?

10 A. He is no longer with UMMC but he was a  
11 senior HR service partner. It is the request of  
12 the employee relations director that when anything  
13 is sent to the office the entire team is copied.

14 Q. Chris Morgan, another person?

15 A. He's also a senior HR service partner.

16 Q. And they both are in employee relations?

17 A. Yes.

18 Q. Along with Ms. Greenwood?

19 A. Yes.

20 Q. Along with Ms. Bass?

21 A. Yes.

22 Q. Okay. All right, Exhibit 13.

23 (Exhibit 13 marked for identification.)

24 A. I'm ready.

25 Q. So looking at page, I'm not going to go

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1 all the way down because the -- I'm going to start  
2 at page two in the PDF. I'm sorry, hold on.

3 Okay, yes, page two in the PDF.

4 A. Okay.

5 Q. And this is you and Dr. Earl talking  
6 about where you're going to meet and what you're  
7 going to do with the termination meeting for  
8 Dr. Papin, correct?

9 A. Yes.

10 Q. And he states we can meet in his office,  
11 that you all can meet in his office. And he asked  
12 you do you need to prepare anything? Do I contact  
13 him. Does the GME office need to do anything?  
14 This is all new to me.

15 At that point when he said, this is all  
16 new to me, did anything go off in your head that  
17 perhaps that Dr. Earl had maybe not done all the  
18 due diligence he may have needed to do to  
19 terminate Dr. Papin in the appropriate manner in  
20 this case?

21 A. I interpreted that to mean the  
22 termination of the employee was new to him, the  
23 actual process.

24 Q. Right. But before you testified, right,  
25 that you were relying on Dr. Earl to do his job

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1 and all the appropriate due diligence that he  
2 needed to have done with respect to the  
3 information he provided to you, correct?

4 A. Yes. My interpretation of his statement  
5 was what was new to him was the physical logistics  
6 of actually telling an employee that he was being  
7 terminated.

8 Q. Okay. On page 1 at the bottom,  
9 scrolling up a little bit, the bottom of the first  
10 page of the PDF. He stated the GME office may  
11 contact him and ask him to come and meet you but  
12 don't indicate what it's for. I will prepare the  
13 documentation and send to you prior to the  
14 meeting.

15 What documentation did you have to  
16 prepare and send to him prior to the meeting?

17 A. Any time an employee is being separated  
18 they will be given information about how they will  
19 be contacted if they're interested in continuing  
20 their benefits. They will be asked to keep their  
21 address updated for W2 purposes at the end of the  
22 year. They will also be told whether or not they  
23 have any unused accrued personal leave and how  
24 they will be compensated for that.

25 Q. During Dr. Papin's termination meeting

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1     **did he -- did you provide him with all these**  
2     **documentations?**

3           A.     At this point I do not recall. I do  
4     recall during the meeting as we were meeting with  
5     him one of the other things that is required is  
6     that the employee's ID badge is retrieved. And  
7     when Dr. Papin was asked for his badge he did not  
8     give it and he got up and rushed from the room.  
9     Dr. Earl attempted to go and catch him but he had  
10    already left from that floor.

11          Q.     Did Dr. Papin sign any documents or do  
12    anything during the termination meeting?

13          A.     There would not have been any documents  
14    from an HR standpoint for him to sign. I don't  
15    recall if Dr. Earl had anything for him.

16          Q.     Okay. Can you tell me about how the --  
17    give me some more details. So you met with  
18    Doctor -- it was you and Dr. Earl meeting with  
19    Dr. Papin, and how did the con -- were you doing  
20    most of the talking or Dr. Earl?

21          A.     Dr. Earl was.

22          Q.     Okay. Can you recall what Dr. Earl was  
23    telling Dr. Papin?

24          A.     I do not recall.

25          Q.     Okay. Did you say anything to

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1     **Dr. Papin?**

2           A.    I attempted to share with him  
3    continuation of benefits and the other items that  
4    I have previously mentioned. And then I asked for  
5    his ID badge.

6           Q.    When you say he ran out of the room,  
7    what do you mean?

8           A.    He got up from his chair and ran out the  
9    door with the ID badge.

10          Q.    Did he say anything?

11          A.    There was some profanity that he spewed  
12    out, but I can't recall specifically what it was.  
13    He directed that at Dr. Earl.

14          Q.    You don't recall what he said though?

15          A.    I don't.

16          Q.    You said Dr. Earl went and tried to  
17    chase after him?

18          A.    He got up -- Dr. Earl was seated behind  
19    his desk. Dr. Papin and I were seated across from  
20    the desk. When I asked for the ID badge Dr. Papin  
21    got up and ran from the room. Dr. Earl came from  
22    around his desk and went out into the hall but  
23    Dr. Papin was nowhere to be seen.

24          Q.    You spoke in your report now for the  
25    first time that Dr. Papin used profanity with

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1     respect to Dr. Earl, why was this never mentioned  
2     before?

3           A.     Mentioned to whom or in what regard?

4           Q.     You hadn't mentioned this in any of your  
5     other e-mails regarding the termination meeting  
6     with respect to Dr. Papin prior to this or  
7     afterwards in any e-mails you sent regarding the  
8     meeting you had.

9           A.     I can not recall. I guess I presumed  
10    that it was not relevant to the situation.

11          Q.     Okay. It wasn't like they got into like  
12    a big screaming match or anything like that was  
13    it?

14          A.     No.

15          Q.     Okay.

16          A.     There was no screaming match going on.  
17    When I asked for the ID badge that's when  
18    Dr. Papin got up from his seat. Dr. Earl may have  
19    said something to him and that was at the point  
20    when he responded and -- as he was leaving the  
21    office.

22          Q.     Okay.

23          A.     This all happened in a very short  
24    duration.

25          Q.     Is it normal procedure for program



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1     **directors to try to physically restrain personnel**  
2     **to keep them from leaving during a termination**  
3     **meeting?**

4           A.     You're misinterpreting what I said. He  
5     did not try to restrain him, he was only going  
6     after him to try to retrieve the badge, the ID  
7     badge.

8           Q.     Okay. But he got up -- did he try to  
9     block the door or block Dr. Papin in or he wasn't  
10    fast enough?

11          A.     The way we were situated Dr. Earl was  
12    behind his desk. Dr. Papin and I were on the  
13    opposite side of the desk. Dr. Papin was closest  
14    to the door. Dr. Papin hurriedly got up from his  
15    chair and exited the door. Dr. Earl came from  
16    around his desk to go out in the hallway but there  
17    was no attempt to physically restrain Dr. Papin.

18          Q.     Okay. Did Dr. Earl state anything to  
19    him as he was going down the hallway like stop or  
20    anything like that?

21          A.     By the time Dr. Earl got up from his  
22    desk, came around the desk, and went out into the  
23    hall he did not see Dr. Papin. He did not go  
24    further down the hall.

25          Q.     Okay. At the top of page 1 of

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1 Exhibit 13. Good morning, what I will prepare is  
2 documentation for termination of employment and  
3 will look to you for any documentation as required  
4 pertaining to his removal from the program.

5 In terms of documentation required for  
6 removal of the program, did Dr. Earl have any  
7 documentation prepared or was there anything that  
8 he needed to give to Dr. Papin that he gave to him  
9 that day or had him sign?

10 A. I don't recall.

11 Q. Exhibit 14.

12 (Exhibit 14 marked for identification.)

13 A. I'm ready.

14 Q. In this e-mail you state, the question  
15 of whether Dr. Papin was terminated because of his  
16 race is rather ironic. Why do you think it was  
17 ironic?

18 A. This came about as a result of an  
19 inquiry where Dr. Papin was appealing his  
20 termination and there was a footnote on it from  
21 the attorney representing him that he felt the  
22 termination was due to his race that he was  
23 Hispanic. So there was irony in that because the  
24 documentation that's attached to that e-mail there  
25 indicates his ethnicity as white.

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1           Q.    The hallway outside of Dr. Earl's  
2   office, how big is that hallway? You said he was  
3   already gone?

4           A.    I don't recall. It's an older building  
5   and I don't know dimensions of the hallway. It's  
6   a typical hallway.

7           Q.    Okay. It's not just like a little --  
8   it's not like, oh, he could have skirted around  
9   the corner real quick?

10          A.    That day that I met with him was the  
11   only time I've ever been in that office so I  
12   really can't recall the specifics of it.

13          Q.    So essentially you all told Dr. Papin  
14   he's being terminated and he just got up and  
15   sprinted out the door as fast as he could?

16          A.    At the point that I asked for the ID  
17   badge he did.

18          Q.    Okay. Did Dr. Papin during that  
19   conversation ever ask -- did he ask Dr. Earl if he  
20   could resign in lieu of termination?

21          A.    I don't recall.

22          Q.    Do you recall Dr. Earl telling him that  
23   that wasn't an option because the decision had  
24   already been made?

25          A.    I don't recall.

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1           Q.    Are you aware that someone can be more  
2    than one race at the same time, for instance,  
3    white and Hispanic?

4           A.    I understand that people can have a  
5    multiplicity of backgrounds. But, no, I'm not  
6    familiar with what determines ethnicity.

7           Q.    What's the difference between ethnicity  
8    and race?

9           A.    I'm not an expert on those  
10   terminologies. I don't know if that's semantics  
11   or not.

12          Q.    But is it conceivable that someone with  
13   multiple races or ethnicities may identify -- I  
14   mean, there wasn't multiple places for him to  
15   put -- on this sheet here, there wasn't multiple  
16   places for him to put more than one option if  
17   someone is multi-ethnic or multi-racial, right?  
18   There would only be -- you have to pick one here  
19   because you only get one choice, right?

20          A.    I don't know.

21          Q.    What don't you know?

22          A.    You were -- if you'll repeat the  
23   question I'll give you a specific answer.

24          Q.    Sure. Could he have put more than one  
25   choice here on this ethnicity box, the pull down

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1 box here that's at the bottom of the e-mail?

2 A. I don't know what those options are.

3 Q. Okay. Is it possible that he just  
4 identified as white because that's the first box  
5 that came up and then Hispanic he just was like,  
6 well, I can't identify as both so I'll just go  
7 with white, is that conceivable here?

8 A. I don't know.

9 Q. Okay.

10 MR. SCHMITZ: Well, I'm going to take  
11 one minute.

12 (A brief recess was taken.)

13 Q. (By Mr. Schmitz) Back on the record. I'm  
14 going to go to what is now Exhibit 15.

15 (Exhibit 15 marked for identification.)

16 A. I'm ready.

17 Q. (By Mr. Schmitz) All right. So this is  
18 an e-mail from -- there is an e-mail from Cecilia  
19 Bass to you stating that there was a charge. Do you  
20 see the charge. Prepare for responding to the  
21 charge, correct?

22 A. Yes.

23 Q. Okay. And she said -- you asked, hasn't  
24 a file already been started on him? Isn't that --  
25 wouldn't you have already prepared the file on

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1 Dr. Papin at this point?

2 A. Brenda Traxler prepared the files.

3 Q. Okay. You say, and, also, would you  
4 please check in Lawson. What's Lawson?

5 A. Lawson was the employee system we were  
6 using at that point. In one of the previous  
7 exhibits that showed his ethnicity, that would  
8 have been a screen shot from Lawson.

9 Q. Understood. Okay. Then it goes on to  
10 say, please see -- you want the form. I seem to  
11 recall it being marked white in Lawson. And then  
12 you state, this is not going to be any easy one.  
13 There's a lot to be desired in how it was handled  
14 prior to HR being involved.

15 What did you mean by that statement?

16 A. I meant that because of the program  
17 director and the GME had already taken quite a bit  
18 of action before HR was ever involved in it.

19 Q. What actions were left to be desired  
20 that they could have done differently before HR  
21 had gotten involved?

22 MR. WHITFIELD: Object.

23 THE WITNESS: In a perfect world they  
24 would have contacted HR prior to doing  
25 anything, and at that point perhaps there

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1 would have been more investigations from HR  
2 rather than merely from the department.

3 Q. (By Mr. Schmitz) Okay. So by placing him  
4 on administrative leave prior to contacting HR, that  
5 is what potentially held up the fact that, you know,  
6 you guys were able to conduct an investigation into  
7 these allegations that were being brought forth  
8 against Dr. Papin?

9 MR. WHITFIELD: Object to the form. You  
10 can answer.

11 THE WITNESS: Not necessarily, but had  
12 HR been involved prior to him being submitted  
13 to employee health for the drug screening  
14 there could have been some discussion as to  
15 what the reasons were, what kind of behavior  
16 was he exhibiting that warranted that. And  
17 there just could have been discussion with HR  
18 so we could know what they were doing and why  
19 they were doing it.

20 We were brought in after the fact with a  
21 lot of what already had been done.

22 Q. (By Mr. Schmitz) What would you have done  
23 differently other than what they had already done?

24 A. I can't tell at this point.

25 Q. Well, you have the information and you

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1 know what they had already did when it was  
2 presented to you, so what steps differently would  
3 you have taken had they involved you, let's say,  
4 in December, just hypothetically?

5 A. I would have checked to see what kind of  
6 documentation they had, what they were basing  
7 their determinations on, what information had been  
8 given for remediation to him, what their plan was,  
9 had they provided some kind of step of  
10 remediation, what kind of information had he  
11 provided them as to why his behavior was such that  
12 it was.

13 Q. Would there have been any, you know, had  
14 you all been involved earlier, would there have  
15 been -- is it typical for you -- I guess I'll say  
16 this, is it typical for you had you been involved  
17 earlier where you would have actually had maybe  
18 some conversations, prior conversations, with  
19 Dr. Papin in addition to what Dr. Earl would have  
20 done?

21 A. Perhaps, but I can't say with certainty.

22 Q. Sure. So to understand you correctly  
23 and just to summarize what you had just stated,  
24 and if I misstate anything then please stop me,  
25 but you basically -- you would have liked the



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1 opportunity to have done a little bit more  
2 investigation into the basis of their allegations  
3 regarding why they were recommending Dr. Papin to  
4 be terminated, correct?

5 A. It's always best to have involvement  
6 from the initiation of any action that is taken  
7 toward an employee.

8 Q. And that's why? Why is that?

9 A. Because it gives us the opportunity to  
10 implore all of our best practices in trying to  
11 fair it out whatever information the person making  
12 the complaint, the person who the complaint is  
13 made against. Everything that we received had  
14 occurred over a period of six months.

15 Q. Right. Did you feel that the  
16 documentation that -- in terms of the counseling  
17 and the follow-up of the counseling that Dr. Earl  
18 had provided to you, or the lack thereof, was a  
19 little bit spotty, it could have been better?

20 A. I felt that it was sufficient to warrant  
21 the termination.

22 Q. Right. But there were a lot of  
23 instances where Dr. Earl had reported, well, I had  
24 a talked to him about this, I had talked to him  
25 about the nurses complaining that he was, you

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1 know, had a bad attitude, but then there was no  
2 e-mail follow-up. Is that something that HR would  
3 have corrected had they been involved earlier and  
4 said, well, if you're going to talk to him then  
5 send an e-mail memorializing that conversation  
6 that you had with him, is that a best practice at  
7 UMMC?

8 A. In the world of HR document, document,  
9 document is our mantra.

10 Q. Right. So would you, in that vein,  
11 would you have liked to have seen Dr. Earl do a  
12 better job of documenting, documenting,  
13 documenting some of these alleged conversations  
14 that he had?

15 A. In a perfect world, yes.

16 Q. Prior to January 10th when Dr. Earl and  
17 Dr. Papin sat down and he signed that document,  
18 which was part of your file that you've been  
19 referencing for most of the day today, were there  
20 any other written warnings that you recall being  
21 in Dr. Papin's file from Dr. Earl regarding  
22 Dr. Papin's conduct or misconduct?

23 A. From an HR standpoint and in keeping  
24 with our progressive discipline process, there  
25 were no written warnings.

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1           Q.    Okay.  When someone -- and I'm sure this  
2 happens a lot from an HR perspective, you get  
3 complaints about an employee having a bad  
4 attitude, maybe not getting along with other  
5 employees, that's typically something somebody  
6 would get either a verbal or a written warning for  
7 prior to termination, correct?

8           A.    At UMMC managers have the discretion in  
9 how they manage their employees.  So if there are  
10 cases of poor interpersonal interaction, there's  
11 an expectation that the manager will take  
12 necessary steps to talk to those people, to send  
13 them to some kind of class, or to do whatever else  
14 is required to resolve it.  Those are not things  
15 that always come to the level of needing HR  
16 intervention.

17          Q.    Not saying HR intervention but from a  
18 management level, shouldn't Dr. Earl have given  
19 him at least a written warning about some of this  
20 stuff and put it in writing that, hey, people are  
21 put off by the way that you talk to them sometimes  
22 or, you know, I've gotten reports that, you know,  
23 sometimes you're late for your rounds in the  
24 morning?  Wouldn't those be the type of infraction  
25 that UMMC that would typically warrant those

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1     **progressive discipline steps, requirements that**  
2     **are set forth in the handbook?**

3           A.     Dr. Earl --

4                   MR. WHITFIELD:  Uh-oh.

5                   MR. SCHMITZ:  You're breaking up a  
6           little bit.

7                   MR. WHITFIELD:  Give us a second and let  
8           the system re -- are you there?

9                   MR. SCHMITZ:  I'm here.  Is the court  
10          reporter still there?

11                   COURT REPORTER:  I'm here.

12                   MR. SCHMITZ:  Okay.  I think we're good  
13          now.

14                   MR. WHITFIELD:  We had a thing that  
15          popped up that said the internet was  
16          unstable.

17                   MR. SCHMITZ:  Oh, okay.  Yeah, you're  
18          good now.

19                   MR. WHITFIELD:  All right.

20           A.     Based on the documentation that Dr. Earl  
21          provided there were several instances where he  
22          indicated that he had met with Dr. Papin.  I can  
23          not tell you why Dr. Earl took the approach that  
24          he did.  I can only surmise that he felt in  
25          meeting with him and verbally sharing that

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1 feedback would have had a positive outcome.

2 Q. Okay. Exhibit 16 is the House Staff  
3 Manual.

4 (Exhibit 16 marked for identification.)

5 Q. And I'm going to ask you, I don't want  
6 you to review the whole House Staff Manual, go to  
7 page 29 of the document. That's 29 within -- not  
8 of the PDF but at the bottom of the page number of  
9 the actual page 29 of the manual itself.

10 And we're going to be talking about  
11 pages 29 through 31, so if you want to just  
12 familiarize yourself with those for a moment that's  
13 fine.

14 A. Okay, I've reviewed it.

15 Q. Okay. Starting at page 31 of the  
16 handbook. Harassment, in bold right there. It  
17 refers to the GME website under administration and  
18 policies. You're not familiar with any of the GME  
19 policies as you sit here today, correct?

20 A. Correct, I am not.

21 Q. You are familiar though with the faculty  
22 and staff handbook and personnel procedures of  
23 UMMC, correct?

24 A. I'm familiar with the booklet. I would  
25 have to review it to make a specific response

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1 about something contained in it.

2 Q. Okay. Under discipline and behavior,  
3 just scrolling up to the next part in bold there,  
4 you see where I'm talking about?

5 A. Yes.

6 Q. Okay. So it states that, in the second  
7 paragraph, it starts with, interns, residents and  
8 fellows, house officers are subject to the rules  
9 and regulations that govern the hospital. What  
10 rules and regulations govern the hospital?

11 A. That would pertain to all the policies  
12 that are included in the faculty and staff  
13 handbook.

14 Q. Would that include other regulations  
15 like -- such as the ACGME regulations and  
16 guidelines?

17 A. I'm not familiar with that.

18 Q. So you're not sure whether those govern  
19 the hospital or not?

20 A. I don't know specifically what this  
21 book -- what -- the information that I'm reading,  
22 I don't know what that is pertaining to.

23 Q. Okay. It states that UHHS professional  
24 behavior policy is available on the medical center  
25 intranet and in the administrative policies and

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1     **procedures manual. What's UHHS? Do you know what**  
2     **that stands for?**

3           A.     At UMMC, University Medical Center,  
4     there are separate divisions. There's one called  
5     UHHS, University Hospital and Health Systems, that  
6     would be any of the medical clinics. That would  
7     include all of the nurses and any of the clinical  
8     staff.

9           The area where I work is considered  
10    academic service and research and it would be all  
11    of the non-clinical areas.

12           There are some specific booklets and  
13    guidelines for the UHHS employee binder that don't  
14    pertain to the academic research and service side.

15           Q.     The next paragraph in this it states  
16    that house staff shall have the right to grievance  
17    procedures as detailed in the handbook for  
18    employees at the medical center. There is a  
19    separate house officer grievance policy for  
20    residents maintained in the graduate medical  
21    education office and included on the GME website  
22    under the administration policy/grievance.

23           Were you aware that house officers are  
24    entitled to different procedures than just another  
25    regular staff person at UMMC?

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1           A.    I'm not familiar specifically with that.  
2    But, again, keep in mind that they have a dual  
3    status as the house officer on the academic side  
4    to which this pertains, and then the employment  
5    side to which the staff employee handbook would  
6    reference.

7           Q.    Right. But in administering any type of  
8    discipline, right, that is going affect the terms  
9    and conditions of a resident's employment, whether  
10   it comes from the HR side or the GME side,  
11   wouldn't, you know, wouldn't HR have to abide by  
12   the same things that the GME has to also abide by?

13          A.    I'm not familiar with what is included  
14   in the GME policy that is referred to here.

15               MR. WHITFIELD: Greg, while you're  
16   getting your next question together I've got  
17   to step out for about 20 seconds. We're not  
18   pausing, we're not going offline. I'll be  
19   right back.

20               MR. SCHMITZ: No problem. Now I'm going  
21   to ask you all the good stuff. I'm just  
22   kidding.

23               MR. WHITFIELD: I'm back, Greg.

24               MR. SCHMITZ: All right.

25          Q.    (By Mr. Schmitz) I'm at the bottom of



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1 page 29. It says, evaluation, 29 of the handbook.  
2 It states, evaluation and promotion and dismissal of  
3 residence policy.

4 A. Okay.

5 Q. So the second paragraph says, each  
6 program must establish criteria for promotion.  
7 Then after that next sentence states,  
8 unsatisfactory training performance may result in  
9 dismissal from the program of the house officer.  
10 This decision will be made by the program director  
11 in consultation with the chairman for the  
12 department.

13 So the decision to dismiss the house  
14 officer from the program, not employment, I know  
15 the distinction now, is made by the program  
16 director and the chairman of the -- who was the  
17 chairman of the department in this case?

18 A. The chairman of the Department of  
19 Medicine is Dr. Javed Butler.

20 Q. Okay. And he was the chairman back --

21 A. He was not at UMMC in 2017.

22 Q. Who was the chairman in 2017?

23 A. I don't recall.

24 Q. Okay. Just bear with me a second, I've  
25 got to pull up this other document. It's going to

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1 be Exhibit 17.

2 (Exhibit 17 marked for identification.)

3 Q. And I'm going to direct your attention  
4 to what's Bates numbered 433 and 435 so you don't  
5 have to review everything in that.

6 A. I've reviewed it.

7 Q. On Bates number 433, Papin 433, there's  
8 a paragraph where the department chairman states,  
9 unsatisfactory trainee performance may result in  
10 dismissal from the program of the house officer.

11 Again, it reiterates here that this  
12 decision will be made by the program director in  
13 consultation with the chairman of the department.  
14 That's in congruence with what we saw on the other  
15 policy, correct?

16 A. It appears to be.

17 Q. The other policy in the House Staff  
18 Manual that we were just looking at?

19 A. It appears to be the same.

20 Q. Okay. And then under appeal from  
21 departmental chair, house officer may appeal  
22 grievable matters by petitioning in writing to the  
23 vice chancellor for health affairs within 14  
24 calendar days of notice of termination from the  
25 program director or chairman, exclusive of UMMC

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1 holidays. Who is the vice chancellor of health  
2 affairs? Do you recall who that would have been?

3 A. The vice chancellor at UMMC is  
4 Dr. LouAnn Woodward.

5 Q. Okay. And she would have been presiding  
6 over this as well back in 2017, she would have  
7 been in the same position?

8 A. Yes.

9 Q. Down a little bit further if you skip  
10 the -- it says, the appeals committee chair will  
11 appoint an appeals committee of four additional  
12 GMEC or RRSC members. What is GMEC and RRSC  
13 members? What do these acronyms stand for?

14 A. GME would be the Graduate Medical  
15 Education Committee. I'm not familiar with this  
16 document so I don't know what the RRSC is. I  
17 presume it must have been referenced somewhere  
18 earlier in this.

19 Q. Okay. The appeals committee chair will  
20 promptly convene the committee to hear the appeal  
21 generally within 10 business days.

22 Are you aware that it took until almost  
23 six months later after Dr. Papin's termination for  
24 him to receive his appeal hearing before the panel  
25 that was appointed?

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1 A. I'm not familiar with that process.

2 Q. You've never had involvement in any of  
3 the other termination decisions that -- like with  
4 respect to Resident 76, how long it took for him  
5 to have his appeal hearing?

6 A. I am not familiar. As I indicated  
7 earlier, all of these things are done in segments.  
8 And with regard to Resident 76, my involvement  
9 ended after those initial investigations. I am  
10 not sure what other areas were involved that  
11 ultimately led to that termination.

12 Q. Are you aware of whether Dr. Papin did  
13 receive his appeal within 10 business days?

14 A. I'm not. I'm not familiar with that  
15 process.

16 Q. Were you present at Dr. Papin's appeal  
17 hearing at all?

18 A. I was only present with Dr. Papin twice;  
19 when I interviewed him and again when I met with  
20 Dr. Earl for the termination. I had no other  
21 involvement.

22 Q. Okay. All right. Okay, Exhibit 18.  
23 (Exhibit 18 marked for identification.)

24 A. I've reviewed it.

25 Q. Okay. Are you familiar with this

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1 document?

2 A. I am not.

3 Q. Do you see it's -- states Policy  
4 Sanctions for Plan Violations. At the top there's  
5 employee action, there's another column on the  
6 other side that says disciplinary action?

7 A. Yes.

8 Q. So it states for employees who willfully  
9 provide materially false information or to UMMC, a  
10 government, patient, insurer, or the like  
11 disciplinary action shall be termination of  
12 employment. Do you see that part?

13 A. Yes.

14 Q. Okay. Then if you go down it's got a  
15 couple of other things after that. And then there  
16 are some lines. And then there's employee  
17 willfully viewing protected health information,  
18 we're going to go past that then, down to the next  
19 one.

20 Employees negligently providing  
21 incorrect information to UMMC, government agency,  
22 patient, or insurance -- insurer or the like.

23 So it states here that disciplinary  
24 action shall range from counseling up to and  
25 including termination. Egregious situations may

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1 result in suspension pending a termination.

2 Now, given the fact that there's  
3 obviously a distinction here, do you see the  
4 distinction I'm making between an employee  
5 willfully providing materially false information  
6 to UMMC and an employee negligently providing  
7 incorrect information to UMMC. The distinction  
8 between willful and negligent, do you see that  
9 there?

10 A. Yes.

11 Q. Did you conduct any investigation when  
12 you were trying to approve or recommend  
13 termination for Dr. Papin regarding whether  
14 Dr. Papin willfully or negligently was just  
15 providing incorrect information to UMMC?

16 MR. WHITFIELD: I'm going to interpose  
17 an objection once again. She's not a  
18 30(b)(6) witness and this is on the  
19 compliance plan policies.

20 Q. (By Mr. Schmitz) You can answer.

21 A. That was what I was going to say. This  
22 is totally involving any kind of sanctions for  
23 compliance plan violations, not the totality of  
24 the HR employee violations that would be contained  
25 in the faculty staff handbook.

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1 Q. Well, I see the distinction that you're  
2 making there but this just states if an employee  
3 willfully provides materially false information to  
4 UMMC then this document here states, this policy  
5 document per UMMC, states that if you willfully do  
6 that you will be fired; is that correct?

7 A. In violation of the compliance plan.

8 Q. But that's not what this says. This  
9 says right here, employee action willfully  
10 providing materially false information to UMMC.  
11 If an employee is found to have willfully done  
12 that you will be fired, correct?

13 A. It is the policy of UMMC to provide for  
14 disciplinary actions to be taken against UMMC  
15 employees who violate the provisions of the  
16 compliance plan. That is what this document  
17 pertains to.

18 Q. Okay. Well, in terms of compliance  
19 then, compliance with medical care provided to  
20 patients, if a resident -- let's put this in the  
21 situation of this case, if a resident is willfully  
22 providing materially false information to UMMC  
23 regarding a patient, would that be a violation of  
24 the compliance plan?

25 A. If it's contained in this document it

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1 would be.

2 Q. Okay. So, again, my question is, was  
3 there an investigation by you regarding whether  
4 Dr. Papin willfully or negligently presented false  
5 information to UMMC?

6 MR. WHITFIELD: I want to interpose my  
7 same objection that this is part of the  
8 compliance plan not the faculty and staff and  
9 she is not a 30(b)(6) witness on the  
10 compliance plan. She can answer whatever she  
11 thinks, but I want my objection noted.

12 MR. SCHMITZ: Yeah. I'm not asking her  
13 about the policies itself or whatever. I'm  
14 simply asking her, did she as the HR  
15 professional who recommended termination in  
16 this case, did she ever conduct an  
17 investigation into whether Dr. Papin  
18 willfully or negligently provided information  
19 to UMMC?

20 THE WITNESS: No.

21 Q. (By Mr. Schmitz) Okay. Previously we  
22 discussed a meeting that you had with Dr. Earl where  
23 Dr. Earl was "adamant" about the fact that Dr. Papin  
24 was not trustworthy and that he was a danger to  
25 patients and he did not trust him to care for the



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1 patients at UMMC anymore. Do you recall that?

2 A. Yes.

3 Q. Part of Dr. Earl's statements that we  
4 just talked about, part of his arguments that  
5 Dr. Papin was a danger to patients was because of  
6 his care of a patient who had an ulcer on his back  
7 that Dr. Earl had felt Dr. Papin was not being  
8 truthful about; is that correct?

9 A. Yes.

10 Q. Is it possible that a resident, a first  
11 year resident may have misdiagnosed something on  
12 the back of a patient, an ulcer, the severity or  
13 grading of an ulcer and that could have just been  
14 a learning experience to Dr. Papin instead of  
15 intentionally concealing that by Dr. Papin?

16 A. I don't know. Dr. Papin had graduated  
17 from medical school. There are people who  
18 graduate from medical school and go out into  
19 practice, so I'm not familiar with the totality of  
20 what he would have learned or retained prior to  
21 coming to UMMC.

22 Q. Was there any investigation into doing,  
23 you know, well, hey, this is something that a lot  
24 of people -- did you ever -- well, let me ask you  
25 this.

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1                   Did you ever do any investigation  
2   regarding whether the grading of -- or did you ask  
3   anybody whether the grading of the severity of an  
4   ulcer was something that a first year resident  
5   should and ought to know, or whether that's  
6   something that could be mistaken by someone who  
7   just had a lack of knowledge rather than someone  
8   who was lying about seeing a patient?

9           A.    No.

10          Q.    Are you aware if anybody else -- if  
11   anybody else did any investigation into the  
12   decubitus ulcer patient that was referenced by  
13   Dr. Earl to identify whether this was an instance  
14   of intentional concealment or negligence?

15          A.    No.

16          Q.    And, again, there was no ICare report  
17   filled out regarding this?

18          A.    Not that I am aware.

19          Q.    If there would have been an ICare  
20   investigation or typically an ICare investigation  
21   involving a patient in patient harm or care, would  
22   there be an investigation into whether a doctor or  
23   resident intentionally harming a patient was  
24   intentionally harming a patient or just  
25   negligently harming a patient? Would that be

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1 something that would be looked into during the  
2 ICare investigation process?

3 A. I don't know, it's not a part of HR.

4 Q. Is it your understanding that  
5 intentionally misrepresenting something to UMMC  
6 and negligently misrepresenting something to UMMC  
7 carries a different disciplinary penalty at UMMC,  
8 or would you weigh those two things differently  
9 from an HR perspective at -- from UMMC?

10 A. The only place where I see that is  
11 delineated is in comparison to the compliance  
12 plan.

13 Q. Okay. But just would you consider  
14 something that was intentional versus something  
15 that was negligent, is the negligent would be a  
16 less egregious offense by somebody rather than  
17 somebody intentionally just, you know, I'm lying  
18 about seeing a patient versus I just didn't know  
19 what I was looking at?

20 A. I would presume it would depend on the  
21 outcome of that action, because if there were a  
22 patient harm I don't think it would matter whether  
23 or not it was willful or negligent if there were a  
24 detrimental outcome.

25 Q. Have you ever been part of any other

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1 cases where any residents have committed medical  
2 malpractice?

3 A. I have not.

4 Q. Have you heard of residents at UMMC  
5 committing medical malpractice?

6 A. I can not say specifically.

7 Q. But it does happen from time to time,  
8 correct?

9 A. I presume it does, yes.

10 Q. Okay. Who would handle that if a claim  
11 of medical malpractice -- would that just go to  
12 legal?

13 A. There is a medical staff office there.  
14 UMMC is quite compartmentalized and so there is a  
15 medical staff office that I presume would handle  
16 that in conjunction with the legal department.

17 Q. Are you aware of any other residents not  
18 just -- in any department, in any other  
19 departments during your tenure at UMMC being  
20 labeled as a danger to patients?

21 A. I'm not sure.

22 Q. Have you encountered any others?

23 A. I have not been involved in any cases.

24 Q. Okay. Except this one?

25 A. Yes.

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1 Q. Okay. Exhibit 19.

2 (Exhibit 19 marked for identification.)

3 A. I'm ready.

4 Q. Okay. I'm going to just skip down to  
5 the part, this is a House Officer Contract between  
6 UMMC and Joseph Papin; is that correct?

7 A. Yes.

8 Q. And these types of contracts are  
9 provided to all different residents, all the  
10 residents, correct? They all sign something like  
11 this?

12 A. Yes.

13 Q. Okay. And in Roman Numeral II it says  
14 that UMMC agrees further that number 1, it will  
15 provide an educational program for post graduate  
16 training in keeping with established standards.  
17 The established standards -- such standards, would  
18 that include the House Staff Manual?

19 A. I'm not familiar with what those would  
20 be.

21 Q. Well, do you have any idea what those  
22 would be or you have no idea what standards would  
23 govern the employment of residents?

24 A. I do not.

25 Q. Well, can you tell me what standards you

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1 do know that apply to employees and residents of  
2 UMMC?

3 A. From an employee standpoint it would be  
4 what is contained in the faculty staff handbook.  
5 But all programs have their own contracts that  
6 would go through the legal office and then they  
7 may have other documents that guide those programs  
8 based on their standards or certifications that  
9 would not be amenable to HR per se.

10 Q. Okay. And so you would have no idea  
11 what the ACGME standards and stuff like that would  
12 be the standards that they're talking about  
13 here --

14 A. I would not.

15 Q. -- post graduate training?

16 A. I would not.

17 Q. It does specifically reference the UMMC  
18 house staff manual here, so are you aware that  
19 that would apply to the residents?

20 A. I presume so, but I'm not familiar with  
21 that.

22 Q. Okay. Number two states that it will  
23 administer -- that UMMC will administer physicians  
24 training program in accordance with the policies,  
25 rules, and regulations of the Board of Trustees of

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1     **Institutions of Higher Learning and the University**  
2     **of Mississippi.**

3                   **What is the Board of Trustees and**  
4     **Institutions of Higher Learning?**

5           A.     It is an entity that guides all of the  
6     public institutions in the state of Mississippi.

7           Q.     Okay. Would that be for like  
8     **accreditation standpoint?**

9           A.     It would be for accreditation, all of  
10    your practices, everything that is embodied in any  
11    public institution is the -- IHL is the oversight  
12    body for that.

13          Q.     Okay. Number 4, it states, physician  
14    shall not be required to perform duties other than  
15    those related to the residency program. Do you  
16    recall in your investigation that there was an  
17    incident with a nurse practitioner and Dr. Papin  
18    in this case whereby the nurse practitioner was  
19    asking Dr. Papin to do something that he felt was  
20    outside the scope of the residency program?

21          A.     Yes.

22          Q.     Okay. And so here do you see that that  
23    fact was held against Dr. Papin but yet in this  
24    contract which UMMC agreed that Dr. Papin would  
25    not have to perform other duties that were not

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1 related to his residency program; is that correct?

2 A. Yes.

3 Q. Looking at page 2 of the contract, Roman  
4 Numeral IV says, both parties further agree that,  
5 do you see where I'm talking about?

6 A. Yes.

7 Q. Okay. States, that in accordance with  
8 the Mississippi Constitution UMMC is empowered to  
9 terminate this contract at any time for  
10 malfeasance, inefficiency, or contumacious conduct  
11 by the physician. Do you have an idea sitting  
12 here today what they mean by malfeasance,  
13 inefficiency, or contumacious conduct by a  
14 physician?

15 MR. WHITFIELD: Object to the form again  
16 because she's not our 30(b)(6) witness and  
17 you're asking for legal conclusions as to the  
18 meaning of this contract language.

19 THE WITNESS: I do not.

20 Q. (By Mr. Schmitz) So not knowing what  
21 these three things malfeasance, inefficiency, and  
22 contumacious conduct mean, yet you still were able  
23 to recommend the termination of Dr. Papin's contract  
24 with UMMC and his employment with UMMC not knowing  
25 what these three things encompass or embody?



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1           A.    The recommendation for his termination  
2    was based on the documentation that was provided  
3    by the department.

4           Q.    All right. But to terminate his  
5    employment, his contract, which would mean his  
6    employment, you would need to find malfeasance,  
7    inefficiency, or contumacious conduct by the  
8    physician. And you just testified that you were  
9    unaware what these terms meant?

10           MR. WHITFIELD: I'm going to object to  
11    the form of the question, and it required her  
12    to make a legal conclusion as to the way you  
13    worded the question.

14           Q.    (By Mr. Schmitz) You can answer if you  
15    can.

16           A.    I'm not aware of the legal  
17    interpretation of those. The recommendation that  
18    I made was from an HR standpoint based on  
19    documentation that the department provided and it  
20    was in keeping with those things that Dr. Papin  
21    violated in accordance with the faculty and staff  
22    handbook.

23           Q.    So you weren't taking into consideration  
24    this House Officer Contract when making your  
25    decision to recommend his termination, is that

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1 correct?

2 A. Not at all.

3 Q. Okay. Fair enough. Now, this one we're  
4 going to jump -- this is the -- the transcript  
5 from your meeting, Exhibit 20, with Dr. Papin. So  
6 we're going to jump around here. I don't want you  
7 to review the whole thing, but I'll tell you which  
8 page we're going to go to and then we'll -- once  
9 you review the page then we can both be on the  
10 same page, all right?

11 (Exhibit 20 marked for identification.)

12 MR. WHITFIELD: First page.

13 MR. SCHMITZ: First page is -- first  
14 let's go to page 3 of the transcript, Tommy,  
15 not the PDF page but actual page 3. It's  
16 broken down in blocks of four.

17 MR. WHITFIELD: I forgot this one was in  
18 the four page version.

19 MR. SCHMITZ: Yeah, I prefer that  
20 anyway.

21 MR. WHITFIELD: I don't. I like the  
22 full page.

23 MR. SCHMITZ: I know.

24 MR. WHITFIELD: All right. You said  
25 page 3 of the actual transcript?

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1 MR. SCHMITZ: Yeah, just page 3, yes.

2 So, you know, on the first page, the first  
3 four. It starts --

4 MR. WHITFIELD: We got it.

5 MR. SCHMITZ: Yeah, the first word is  
6 since July 1.

7 THE WITNESS: Yes, I see it.

8 Q. (By Mr. Schmitz) Okay. Go ahead and take  
9 a look at that. And just really quick, this  
10 interview took place, again, on January 27?

11 A. Yes.

12 Q. And you confirmed Dr. Papin's  
13 termination with Dr. Earl on February -- I believe  
14 it was the 20th, it was two days before the  
15 deadline?

16 A. Yes.

17 Q. Okay. Just let me know whenever you're  
18 ready.

19 A. I'm ready.

20 Q. So this is you were talking to Dr. Papin  
21 here about a run-in with one of the nurse  
22 practitioners; is that correct?

23 A. Yes.

24 Q. This is the incident we talked about  
25 where that became a heated exchange?

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1 A. Yes.

2 Q. Okay. So Dr. Papin explained to you  
3 that he had been told by the attending physician  
4 that he could go down to the operating room; is  
5 that correct?

6 A. Yes.

7 Q. And in response to him trying to do that  
8 a nurse practitioner got aggressive with him; is  
9 that correct?

10 A. Yes.

11 Q. Okay. And on page 4 Dr. Papin informed  
12 you that he had told the chief resident about the  
13 incident that day and they told Dr. Earl that day,  
14 and then the nurse practitioner came and spoke to  
15 him the next day and apologized; is that correct?

16 A. That was Dr. Papin's statement, yes.

17 Q. Okay. Did you -- and I believe you  
18 testified earlier, you never went and spoke to  
19 this nurse who he had the incident with?

20 A. I did not.

21 Q. And HR typically does investigate and  
22 conduct interviews in instances where a potential  
23 violence or work place bullying is taking place?

24 A. When things are reported. But, again,  
25 this was an incident that had occurred six months

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1 prior.

2 Q. Okay. Can you go to page 10 for me.

3 This is -- you're still discussing the incident  
4 with the run-in with the nurse here. If you look  
5 on line 12 you ask Dr. Papin, so was there anyone  
6 who witnessed that exchange?

7 A. Yes, I see that.

8 Q. Okay. And then he said, yes, Marita  
9 Walton was in there. And you said, who is that.  
10 And he said, she's another nurse practitioner.  
11 Did you ever reach out to Marita Walton to get her  
12 side of the story of what happened during that --  
13 for that heated exchange?

14 A. I did not. Again, this had occurred six  
15 months prior to the conversation with Dr. Papin.

16 Q. But this is part of the totality of  
17 circumstances as you call them, which were used to  
18 justify and which you used to recommend the  
19 termination of Dr. Papin's employment, correct? I  
20 know it's not the whole reason but it's part of  
21 the reason why Dr. Papin was terminated, correct?

22 A. Yes.

23 Q. Okay. And yet there was no talking to  
24 any of the witnesses or to the nurses by you  
25 whatsoever?

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1 A. No.

2 Q. What did you do to prepare for this  
3 interview with Dr. Papin on the 27th?

4 A. I reviewed the documentation that had  
5 been provided by the department?

6 Q. Okay. And that's all the things that  
7 you mentioned previously today?

8 A. Yes.

9 Q. Did you prepare a question outline for  
10 this interview with Dr. Papin, did you do any  
11 other preparations like that?

12 A. Typically I would prepare questions for  
13 myself to prompt to ask questions, and I would  
14 always ask the person that I was interviewing to  
15 just share information. I would let them know why  
16 they were being interviewed and then I would just  
17 allow them to talk, and as they talked I would ask  
18 questions. And then whatever notes I had already  
19 written regarding the documentation that I had  
20 already reviewed, there would be little triggers  
21 for me to ask questions as well. There is no  
22 template for doing these investigations.

23 Q. Okay. So you did have some questions  
24 already or talking points at least mapped out  
25 prior to the start of the interview?

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1 A. Yes.

2 Q. Did you provide those questions or that  
3 outline or notes that you had prepared to Tommy so  
4 that he could produce those to us?

5 A. No. I typically destroy those after  
6 I've done the interview because all of the  
7 interviews are recorded and everything that is  
8 discussed is on the recording.

9 Q. Okay.

10 A. I never do an interview with the  
11 perception that it is going to lead to some legal  
12 proceeding.

13 Q. So in all the interviews that you do  
14 they're transcribed like this?

15 A. They're recorded, they're only  
16 transcribed if there is some kind of outside  
17 action beyond UMMC.

18 Q. Okay, that makes sense. I'm going to go  
19 to page 12, line 7 on page 12 you start asking him  
20 about an instance supposedly where a code was  
21 called and it was your patient but you didn't come  
22 to check on him?

23 A. Yes, I see that.

24 Q. Where did you hear about this, like who  
25 told you that?

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1           A.     Everything that Dr. Papin was questioned  
2     about was included in the documentation that I had  
3     reviewed prior to interviewing him.

4           Q.     Okay. And you stated earlier that  
5     Dr. Papin basically admitted to all this stuff so  
6     there was no reason to do a follow-up  
7     investigation; is that correct?

8           A.     A follow-up investigation with him?

9           Q.     A follow-up investigation with anybody?

10          A.     I felt that the documentation was  
11     conclusive.

12          Q.     You also said that the documentation was  
13     conclusive, as well as during your interview with  
14     Dr. Papin that Dr. Papin had admitted to almost  
15     everything so there was no real reason to question  
16     the validity of the documentation that you had  
17     received?

18          A.     Yes.

19          Q.     Okay. But Dr. Papin didn't admit that  
20     he had caused a problem with this nurse  
21     practitioner did he?

22          A.     Dr. Papin did not feel that his actions  
23     were accurately perceived.

24          Q.     Okay. And with respect to the code, the  
25     patient being coded, Dr. Papin also had an



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1 explanation for that as to why he didn't come  
2 back, correct?

3 A. Yes.

4 Q. And he had told you that basically he  
5 was already too far gone already in the car before  
6 he had known about the code?

7 A. No, he said he heard the code but he had  
8 already signed out and it did not occur to him --  
9 because there were other patients on that floor --

10 Q. Right.

11 A. -- it did not occur to him that that may  
12 have been his patient but he did not check because  
13 he had already signed out.

14 Q. Right. And like you testified earlier  
15 before, they don't call out patient, the name over  
16 the loud speaker and say that patient is coding  
17 right now, they just say patient on the third  
18 floor there is a Code Blue, right?

19 A. Correct.

20 Q. Okay. It wasn't until he was already  
21 gone and in the car when he learned that it was  
22 actually his patient, correct?

23 A. That's what he said, yes.

24 Q. At the bottom of page 13 you mentioned,  
25 line 21, that there's a perception that he was

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1 always in a hurry to leave. And so you asked him  
2 what his typical day was like. And then on page  
3 14 Dr. Papin explains that -- his day and what  
4 that is like. And then he states that he was  
5 never in a hurry to leave and that this was  
6 actually the first he had ever heard of that, on  
7 line 13 and 14.

8 And then you followed up on line 15 of  
9 page 14 stating that, so no one has ever told you  
10 or said anything to you about that. And he  
11 stated, no, ma'am.

12 And so, again, this is another instance  
13 where Dr. Papin is denying the fact that anyone  
14 has ever told him that he was in a hurry to leave;  
15 is that correct?

16 A. That's what he said, yes.

17 Q. Did you ever conduct any investigations  
18 to follow up on those facts about Dr. Papin being  
19 in a hurry to leave?

20 A. Other than the review of the  
21 documentation that had been provided, no.

22 Q. All right. So at the bottom of page 15,  
23 line 25, you start -- you're asking him a  
24 question, you say -- and if I'm going to too fast  
25 please --

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1 A. No, I see it.

2 Q. Okay. You say, so tell me about you  
3 leaving during your regular workday to tell people  
4 you are going to exercise, right? And he says,  
5 right, right. And then he said, one time I asked  
6 the chief resident. He said, it was a really slow  
7 day. And she said that -- you said, do you think  
8 it's okay. And she said, yes, just bring your  
9 pager, you'll be fine to go. So he went for 15  
10 minutes, came back, didn't miss anything. And he  
11 said that Dr. Earl did bring that up multiple  
12 times.

13 Are you aware or did you conduct any  
14 investigation into whether Dr. Papin had asked for  
15 permission to go for a quick run on campus --

16 A. No.

17 Q. -- or whether that permission was  
18 granted?

19 A. No.

20 Q. Did you conduct any investigation into  
21 whether that permission was later denied by that  
22 same chief resident about a week later when  
23 Dr. Papin posed the same question?

24 A. I did not.

25 Q. Dr. Papin on line 20 of page 16 said,

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1 but I had permission and I had a written  
2 conversation here, which if you would like to see  
3 it I can bring it out. Did you ever obtain that  
4 written conversation from Dr. Papin so that you  
5 could review it for your own eyes?

6 A. I did not.

7 Q. On page 17, line 4 you bring up the  
8 incident with the ulcer patient. And you say,  
9 there were patients that are supposed to be  
10 checked and you had indicated you had seen the  
11 patient but this patient had a stage 4 decubitus  
12 wound and you never mentioned that. Do you recall  
13 that situation?

14 A. I see it.

15 Q. On line 17 on page 17 you state, well,  
16 the version we got was after someone else  
17 discovered the wound. Then you said, oh, yeah,  
18 that patient does have a wound. But the premise  
19 being if it -- the premise is that with it being  
20 stage 4 you should have seen it. That would have  
21 not occurred over a period of a day or two, that's  
22 something that would have occurred over a long  
23 time. Who told you that that would have occurred  
24 over a long time? Where are you getting this  
25 information regarding how stage 4 decubitus ulcer

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1       wounds go one way or the other?

2           A.     I have done immanent research on what  
3       those were because I needed to be familiar with  
4       what decubitus was.

5           Q.     Okay. So prior to the interview you  
6       looked up on Google or something what a decubitus  
7       ulcer was and how they act?

8           A.     Yes.

9           Q.     Okay. Previously you testified that you  
10      had not reviewed any of the patient records from  
11      this decubitus ulcer patient; is that correct?

12          A.     That's correct.

13          Q.     So when making this statement you would  
14      have not been aware that many other -- there were  
15      several other providers including the wound care  
16      nurse and other people who were in fact aware that  
17      there was a wound on this patient's back for quite  
18      a long time?

19          A.     That's correct. But from the  
20      information that Dr. Earl provided it was more so  
21      that Dr. Papin was supposed to be checking those  
22      patients and it appeared that he had not done what  
23      he should have done in regard to seeing that  
24      patient.

25          Q.     Okay. But would that be an instance

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1     where he was a first year resident and he was  
2     trying to learn, this was a learning experience  
3     for Dr. Papin, correct?

4           A.     I presume after that four years of  
5     medical school he would have had some knowledge of  
6     what a decubitus wound was and how it occurred.

7           Q.     But you don't -- you don't have -- of  
8     course you don't have any medical background to  
9     make that kind determination do you?

10          A.     No, but I was relying on the information  
11     that the program director had provided.

12          Q.     Do you know if Dr. Earl had reviewed  
13     this patient's records or seen this patient?

14          A.     The information about the incident with  
15     the patient's wound was included in the  
16     information that Dr. Earl provided. I can not say  
17     that he actually reviewed that patient's case.

18          Q.     So on page 18, line 7 Dr. Papin  
19     responded to your question stating, I mean, I  
20     think it was more of a gap of knowledge more than,  
21     you know, it didn't look like floridly terrible or  
22     anything like that because if the patient that I'm  
23     talking about, the wound ostomy, this is the day I  
24     went -- this is the day before I went on Christmas  
25     vacation. And the wound ostomy nurse printed a

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1 note that day and I had seen it but didn't  
2 think -- but then you stopped him and you stated,  
3 but you had not voiced that it was there and  
4 supposedly you had been seeing this patient. He  
5 said, oh, I had been. So we alternate, I'm not  
6 the only resident. So, I mean, there was Wilbrook  
7 and there were nurse practitioners that alternated  
8 every day, so I was not the only person seeing the  
9 patient. And, yeah, I seen it and I didn't think  
10 it was that bad. So, I mean, it was an issue of  
11 knowledge I think maybe.

12 So when Dr. Papin explains that I didn't  
13 do this intentionally, I just didn't know exactly  
14 what I was looking at and that it needed to be  
15 reported because there were so many other people  
16 also caring for this patient, wouldn't you think  
17 that that is a reasonable explanation that should  
18 be brought up to rebut what Dr. Earl thought was  
19 just blatant lying on the part of Dr. Papin?

20 A. I thought that if Dr. Papin was caring  
21 for the patient and he knew he was supposed to be  
22 checking the patient, if there was a concern with  
23 a break in the skin he would have also reported it  
24 to someone. Whether that was willful or  
25 negligent, he did not do that.

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1           Q.    Okay.  But if a resident, a first year  
2   trainee resident doesn't know what he's doing or  
3   what he's looking at at that point in time, what  
4   basis did you have to assume that this was a  
5   willful act on his part?

6           A.    I did not say it was willful.  I said he  
7   did not report it to anyone, and caring for that  
8   patient was a part of what his responsibility was.

9           Q.    Again, and just based on your knowledge,  
10   I know that you're not a medical expert or  
11   anything like that, but when a patient is being  
12   cared for by a resident, it's not just the  
13   resident's responsibility, there's also another --  
14   there's a whole other team of people who see a  
15   patient, which would include nurses, nurse  
16   practitioners, and attending physicians; is that  
17   correct?

18          A.    Yes.

19          Q.    So then the responsibility, the lowest  
20   man on the totem pole, not even a real -- has no  
21   medical license --

22                MR. WHITFIELD:  Object to the form.

23          Q.    (By Mr. Schmitz)  -- the first year  
24   resident is responsible for not recognizing this  
25   wound on the back, or the severity of the wound on a



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1 patient's back, not the atten -- in your opinion, it  
2 would not be the nurses, it would not be the nurse  
3 practitioners, or the doctors problem that they also  
4 didn't notice the fact that this patient had a wound  
5 on his back?

6 A. I do not know what the process is or  
7 what kind of acclamation the first year residents  
8 have, what they are required to do, so I can not  
9 respond to that.

10 Q. Does that sound fair to you though that  
11 a first year resident gets all the blame for  
12 something that everybody else on the entire team  
13 also missed until it became a stage 4 wound?

14 A. I don't know whether or not there were  
15 any other people held blameless, but since we were  
16 dealing with Dr. Papin, this pertained to what his  
17 responsibility was and what it was felt that he  
18 did not carry out as a part of his responsibility.

19 Q. You're not aware sitting here today  
20 though that anybody else was put any blame on did-  
21 or anybody else was disciplined, from HR at least?  
22 Were any other doctors, nurse practitioners,  
23 nurses, anybody else who saw this person, were  
24 they disciplined as the result of their care of  
25 this patient?

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1           A.     There was no -- there was no other  
2     information provided to me pertaining to that or  
3     any other patient.

4           Q.     Okay. So sitting here today to the best  
5     of your knowledge, nobody else received any type  
6     of discipline for the care of this decubitus ulcer  
7     patient that --

8           A.     I don't know.

9           Q.     Okay. You were not involved in the  
10    discipline of anybody else who cared for this  
11    patient, correct?

12          A.     That's correct.

13          Q.     Did you ever reach out to this Wilbrook,  
14    the other resident Wilbrook, to ask him if he also  
15    checked the back of this patient?

16          A.     I did not.

17          Q.     Is there any reason why you didn't reach  
18    out to Wilbrook?

19          A.     I did not interview any other persons  
20    involved with Dr. Papin's case.

21          Q.     Why is it that Dr. Papin gets labeled as  
22    a danger to patients as a resident while Wilbrook,  
23    who also saw this patient, did not get labeled and  
24    terminated as a danger to patients?

25          A.     I can not attest to that, that would

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1 have been Dr. Earl's call.

2 Q. Between January 27 and February 20 when  
3 you recommended and approved Dr. Papin's  
4 termination you never thought it would be a good  
5 idea to reach out to Wilbrook to see if Wilbrook  
6 needed some type of discipline with respect to  
7 this case?

8 A. I did not.

9 Q. On page 19, line 5, after he got done  
10 saying it wasn't that bad you said, well, that's  
11 bad. And Dr. Papin on line 6 said, she asked me,  
12 she said, oh, yeah, it doesn't look that bad. The  
13 wound ostomy nurse dropped in a note. Wound  
14 ostomy didn't mention anything about needing any  
15 sort of surgical intervention.

16 So Dr. Papin did have a conversation  
17 with a wound ostomy nurse who did also recognize  
18 that the wound occurred and she also didn't  
19 recommend surgical intervention; is that correct?

20 A. That is stated. And then if you will  
21 look further down where Dr. Papin did say  
22 eventually what the patient needed, but I don't  
23 know what the timeframe was between the time he  
24 said he talked with the ostomy nurse.

25 Q. And are you aware that the ostomy nurse

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1 had been recommending conservative topical  
2 treatments on this patient's wound for a period of  
3 approximately two weeks prior to Dr. Papin being  
4 accused of not ever reporting this wound?

5 A. I am not.

6 Q. Did you ever seek out to talk to the  
7 wound ostomy nurse that Dr. Papin is talking about  
8 here?

9 A. I did not.

10 Q. So do you think it would have been a  
11 good idea to ask her if you thought that Dr. Papin  
12 was actively trying to conceal the fact that this  
13 person had a wound on his back that was getting  
14 worse and worse by the day?

15 A. I took the word of the leader of the  
16 program that all of the concerns that had been  
17 brought forth had been confirmed.

18 Q. Okay. Page 21, line 6, you brought up  
19 the fact to Dr. Papin, well, there's another  
20 concern to indicate that you've gone on rounds  
21 when you actually haven't seen a patient?

22 A. I see that.

23 Q. Okay. And then so Dr. Papin's response  
24 says number 9, right, he mentioned that. I'm  
25 assuming he said Dr. Earl mentioned that to him.

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1 And I still don't know what he's referring to  
2 because I categorically deny ever saying I've seen  
3 a patient and not seeing a patient.

4 So, again, here -- before -- you stated  
5 before that Dr. Papin admitted to basically all of  
6 the allegations, so there was no need to go  
7 confirm any of this stuff. But, yet, here, again,  
8 he's categorically denying that he lied about  
9 seeing patients that he hadn't -- that he had  
10 seen.

11 So did you ever think here where there's  
12 a categorical denial by Dr. 1Papin that, hey,  
13 maybe I should go look into this and see if this  
14 guy is full of it or not?

15 A. I took the word of the leader of the  
16 program because there was more than one report  
17 from various co-workers to support these  
18 allegations.

19 Q. Didn't you say earlier that the mantra  
20 of HR is document, document, document, correct?

21 A. Yes.

22 Q. In this case do you think that you did a  
23 sufficient job from your perspective documenting,  
24 documenting, documenting these facts as they were  
25 presented to you or doing any type of

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1 investigation regarding these facts?

2 A. In reviewing all of the documentation  
3 that was provided I felt that it was conclusive  
4 enough to support the recommendation. There was  
5 no need for me to go back and redo what the  
6 department had already done.

7 Q. But this is a resident who was up for  
8 potential termination and who had been discussed  
9 for termination, I mean, don't you think that it  
10 would have been prudent and best practices from HR  
11 perspective to have looked into some of these  
12 things, just at least to peak and check before  
13 potentially ruining this resident's medical  
14 career?

15 A. I felt that the documentation provided  
16 was sufficient.

17 Q. Are you aware of the due process rights  
18 that residents have with respect to their  
19 entitlement to participate in residency programs?

20 A. I am not.

21 Q. So those, you know, alleged potential  
22 due process rights that Dr. Papin would have  
23 possessed did not factor into your investigation  
24 or your recommendation to terminate Dr. Papin?

25 A. No.

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1           Q.    My notes were a little bit off. I'm  
2    sorry, let me get organized.

3           MR. WHITFIELD: Greg, you want to take  
4    our five minute hour break?

5           MR. SCHMITZ: Yeah, that's fine. Yeah.  
6    I was actually just going to suggest that.

7           MR. WHITFIELD: All right.

8           (A brief recess was taken.)

9           Q.    (By Mr. Schmitz) Back on the record.  
10   Page 23 of the transcript here starting at line 17.

11          A.    Yes.

12          Q.    So Dr. Papin just told you, I can tell  
13   you honestly that I do want to improve. And you  
14   said, so what do you think it would take for them  
15   to regain trust? And you stated question -- or  
16   there's no question about the potential and the  
17   ability and the capacity that you have. But there  
18   is a concern that the motivation is not there, the  
19   truthfulness is not there. It's almost like  
20   this -- like a cavalier type attitude that, well,  
21   that's not my patient, or yeah, but then you go  
22   and -- you go, oh yeah, I did that, but then you  
23   go back and look at the records and find that  
24   there's something missing. What do you think  
25   could be done in terms of support for you so that

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1     you could feel sure that this person should be in  
2     this program.

3                 So you asked Dr. Papin what could be  
4     done in terms of support. Do you -- was anything  
5     ever done after this interview in terms of trying  
6     to support Dr. Papin's success in the program?

7                 A.    I don't know.

8                 Q.    You had never seen Dr. Papin in action  
9     or anything like that, correct, worked along side  
10    him, observed him working with his co-workers?

11                A.    No, I would have no reason to.

12                Q.    But yet you classified him as having  
13    this cavalier type of attitude but yet you didn't  
14    have any first-hand knowledge of whether he  
15    actually did have that attitude, correct?

16                A.    His attitude was cavalier when I met  
17    with him. But what I was talking to him about  
18    during the interview was based on the information  
19    that had been provided by the department.

20                Q.    Okay. Page 30, line 22, you're talking  
21    about when feedback is given to him.

22                A.    Yes.

23                Q.    And you ask him, are you ever given the  
24    specifics of which patient it was or which nurse  
25    practitioner or what day and when these things



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1 have occurred? And Dr. Papin replies to you on  
2 page 31, line 2 saying, never ever am I ever given  
3 that. And Dr. Earl, and this kind of a cultural  
4 thing with surgery, with surgery it's kind of  
5 you're told something is more militaristic in that  
6 regard. If you're told something that's gospel.  
7 You don't question it. You don't say anything.  
8 You know, whatever they tell you is what it is.

9 So in stating that, that he was never  
10 give specific feedback regarding his interactions  
11 with other people or who it was or anything like  
12 that, did you ever make an effort to try to give  
13 Papin more details on these things so perhaps that  
14 he could go back and apologize to these people or  
15 connect with these people and say, hey, I think  
16 we're just -- we're not connecting well and I just  
17 wanted to say -- I want to apologize and I'm  
18 working on that? Was there any attempt by you to  
19 facilitate any kind of discussions like that?

20 A. That was not my role or responsibility,  
21 no.

22 Q. Are you aware of whether Dr. Earl -- did  
23 you have any conversations with Dr. Earl after  
24 this regarding, hey, can you provide Dr. Papin  
25 with the specifics, he's saying that he didn't

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1 have the specifics on these people that he was  
2 making angry and he'd like to go back and try to  
3 make amends with these folks so he can continue on  
4 in this program?

5 A. I did not.

6 Q. Okay. I want to go to the last line of  
7 page 34, number 25, line 25 on 34.

8 A. Yes.

9 Q. You're wrapping up the interview and you  
10 say, okay, well, as I said, we consider this a  
11 fact-finding session. Anytime concerns are  
12 brought to us we do talk with the people involved  
13 and then what we do is provide a summary and give  
14 that to whomever has asked us to do an  
15 investigation.

16 So you were asked to do an  
17 investigation, it was a fact-finding thing, did  
18 you talk to any of the people involved with this  
19 case?

20 A. Dr. Papin.

21 Q. Just Dr. Papin, correct?

22 A. Yes.

23 Q. And you said, and then whatever the  
24 ultimate outcome is it's left up to the  
25 department, but this is a very confidential thing

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1 so please keep it confidential and we ask you to  
2 do the same.

3 So why did you state that it would  
4 ultimately be the department's decision, I thought  
5 you were part of the decision as well?

6 A. I'm not a part of the decision. I may  
7 review and support the recommendation, but  
8 ultimately HR's role is to give recommendations  
9 and advice. But in terms of terminations,  
10 everything must be approved by employee relations.

11 Q. Okay. But you stated here that whatever  
12 the ultimate outcome is it's left up to the  
13 department, that would be a the general surgery  
14 department, the GME, and all that kind of stuff?

15 A. Yes, that was my reference.

16 Q. Okay. All right. Let's get to the next  
17 one. Almost done. That was the hard part.

18 A. I've reviewed it.

19 (Exhibit 21 marked for identification.)

20 Q. (By Mr. Schmitz) Okay. This is an e-mail  
21 between Pam Greenwood and Cecilia Bass, Johnny  
22 Gilmore, and Chris Morgan?

23 A. Yes.

24 Q. Regarding Papin and the request for  
25 termination. Cecilia is bringing up the fact

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1 that -- or Pam is bringing up the fact to Cecilia  
2 that she's reviewed the documentation and she's  
3 noted some concerns. Did she say or share any of  
4 these concerns with you?

5 A. These are similar to the items that she  
6 provided on that same date in an e-mail, and that  
7 was the basis of Molly Brasfield's response that  
8 what she was inquiring about was more from the  
9 analysis of a standpoint from academics and not  
10 from employee.

11 Q. Don't you think these are normal kind of  
12 things that would take place in an HR  
13 investigation, correct, whether I guess it's  
14 outside of the wheelhouse because there's this  
15 distinction between program and HR and this and  
16 that, but wouldn't these -- some of these things  
17 that she's raising, the fact that there were  
18 feedback sessions held -- it is known that  
19 feedback sessions were held with Dr. Papin in  
20 regards to unsatisfactory performance but did not  
21 see any supporting documentation of the meetings  
22 held to discuss the employee's performance  
23 deficiency other than the letter issued to him by  
24 the program director, Dr. Earl.

25 Wouldn't the fact that there was a lack

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1 of documentation regarding prior meetings other  
2 than the one that you've been referencing all day,  
3 wouldn't that be something that is concerning to  
4 you from an HR perspective, lack of documentation,  
5 document, document, document?

6 A. Document, document, document is what HR  
7 does and it is what we recommend, but there are  
8 often times when the departments will seek to do  
9 verbal meetings. They will say, well, I met with  
10 Dr. Papin, I talked to him about this.

11 And keep in mind that HR is getting all  
12 of this information after the fact, so we would  
13 not ever tell anyone to go and recreate something  
14 after it has occurred if they can not  
15 specifically, accurately, and factually record  
16 everything that has occurred from a previous  
17 encounter.

18 MR. SCHMITZ: Can you hold on, my wife  
19 just got something with my daughter? I'll be  
20 right back.

21 MR. WHITFIELD: All right.

22 (A brief recess was taken.)

23 Q. (By Mr. Schmitz) All right. So back  
24 to -- we're on Exhibit 21. Bullet point number 2,  
25 the academic remediation protocol checklist is

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1 incomplete and is not signed by the resident or the  
2 program director.

3 Did this cause any concern with respect to  
4 your decision making process determining Dr. Papin?

5 A. It did not. Again, these were some of  
6 the similar concerns that she sent in an e-mail to  
7 me on that same day and those were all determined  
8 to be in the academic vein rather than the  
9 employee vein.

10 Q. The fact that the next bullet point is  
11 raises the issue that nothing is indicated  
12 anywhere in the documentation, what measures were  
13 taken to address Dr. Papin's performance issues  
14 and concerns, you hadn't seen anything that would  
15 warrant -- that wouldn't warrant you to do  
16 anything further with respect to that?

17 A. No, because, again, that has to do with  
18 the academic component as a house officer under  
19 the auspices of the GME.

20 Q. If you're going to fire somebody from a  
21 HR perspective, doesn't the fact that somebody,  
22 you know, if they have some type of performance  
23 issues, what type of remedial measures were taken  
24 or conferences they would have or counseling they  
25 were given, that's HR too, right? You know,

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1     that's not just GME, that would blur, right, into  
2     what you do, right?

3           A.     From an HR standpoint it would be those  
4     things that were not in compliance with what is  
5     included in the faculty staff handbook. The  
6     analysis trainee comments document is specifically  
7     referring to some component of his training  
8     educationally, not anything in comparison to the  
9     employee aspect of his status.

10          Q.     Right. But the employee aspect of his  
11     status would encompass behavioral problems,  
12     correct?

13          A.     But the issues that Ms. Greenwood raised  
14     would more be in line with the academic component.

15          Q.     So bullet point number 4, would this  
16     also be an academic component, disruptive behavior  
17     almost escalating into a physical fight, how was  
18     this behavior addressed? That seems like an HR  
19     thing, right?

20          A.     It is, and it was included in the report  
21     from Dr. Earl where he said he had spoken with  
22     them. And, again, that was from six months prior.

23          Q.     Okay. All right. Now, the next -- I  
24     only have it in two separate pages, but it's all  
25     going to be one page consisting of Exhibit 22.

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1 (Exhibit 22 marked for identification.)

2 MR. WHITFIELD: Is it two separate down  
3 loads or is it one?

4 MR. SCHMITZ: Yes, it's going to be --  
5 they're both Exhibit 22 just different pages.  
6 For whatever reason I have them in like --

7 MR. WHITFIELD: Why did they switch to  
8 jpegs instead of PDF?

9 MR. SCHMITZ: I don't know. I'm not a  
10 computer guy.

11 MR. WHITFIELD: Well, I gave them to you  
12 in PDF. What did y'all do?

13 MR. SCHMITZ: Somehow they got turned  
14 into a jpeg so we're going to roll with it.

15 MR. WHITFIELD: All right. I think I  
16 got them up where we can read them.

17 THE WITNESS: I see them.

18 Q. (By Mr. Schmitz) Okay. Is this a  
19 document that you've been talking about for most of  
20 the day that both Dr. Papin and Dr. Earl had signed  
21 whereby Dr. Papin had signed off on the fact that he  
22 had done a lot of these things?

23 A. Yes.

24 Q. Okay. The document -- this is  
25 essentially what you would call in the HR world a



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1     **performance improvement plan; is that correct?**

2           A.     No, it is not.

3           Q.     What is it?

4           A.     I perceived it as a document outlining  
5     the concerns that were brought forth to this  
6     particular employee.

7           Q.     And this also outlines that he had 60 --  
8     or he was supposed to have 60 days to improve on  
9     these things that are outlined in this document?

10          A.     It does.

11          Q.     Isn't that what a performance  
12     improvement plan does, it gives a set time period  
13     of things --

14          A.     A performance --

15          Q.     -- improve on and then --

16          A.     A performance improvement plan outlines  
17     what the concerns are, then it divides -- it  
18     devises what the process is for improvement with a  
19     timeline.

20          Q.     Isn't that exactly what this document  
21     does?

22          A.     It's similar to that, yes.

23          Q.     Okay. So on January 10 Dr. Earl sat  
24     down with Joe and said that many of these  
25     issues -- the concerns raised regarding your

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1 performance, many of these issues relate to  
2 professionalism and system based practice issues  
3 and raised concerns for patient safety.

4 Just paraphrasing says, these  
5 concerns -- these include concerns with lying and  
6 being untruthful about patient care. And as we  
7 discussed during your interview with Dr. Papin on  
8 the 27th he denied that he was lying about patient  
9 care, correct?

10 A. Yes.

11 Q. Leaving the hospital during duty hours  
12 to exercise, dereliction of duty. Now, during  
13 your interview with Dr. Papin, Dr. Papin testified  
14 that he -- that he had permission when he left the  
15 one time to go, from the chief resident, to go  
16 exercise for 15 minutes; isn't that correct?

17 A. He did say that, yes.

18 Q. Unwillingness to help with tasks. He  
19 did explain that he had received instructions from  
20 an attending physician that he could go to the OR  
21 if he wanted to observe instead of helping out  
22 with other sort of more menial tasks --

23 MR. WHITFIELD: Object to the form.

24 MR. SCHMITZ: You can answer.

25 MR. WHITFIELD: Misstating the prior

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1 testimony, but go ahead.

2 THE WITNESS: There were several  
3 incidents, and I would have to go back and  
4 review them specifically, but there were  
5 other incidents where a nurse practitioner in  
6 particular had attempted to show him how to  
7 do something and I think his response was I'm  
8 a surgeon. So it was not just one incident  
9 of unwillingness to help with tasks.

10 Q. (By Mr. Schmitz) Okay. So on Tuesday, on  
11 the Tuesday, December 20, we met with Renee Greene  
12 present and discussed these issues. This is in  
13 addition to some other means including --

14 MR. WHITFIELD: Greg, we can't hardly  
15 hear you.

16 MR. SCHMITZ: Oh, I'm sorry.

17 Q. (By Mr. Schmitz) It says on Tuesday,  
18 December 20, we met with Renee Greene present to  
19 discuss these issues. This is in addition to  
20 several other meetings including but not limited to  
21 your semi-annual review, feedback from senior  
22 residents, and a meeting in late November between  
23 you and I outside of OR16. You were told  
24 significant improvement was needed in these areas in  
25 the near future or we would have to implement formal

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1 remediation. Based on the feedback received, see  
2 document attached, after our December 20 meeting it  
3 is evident that no improvement has been made, and  
4 most concerning we have serious issues with  
5 truthfulness. Therefore, we discussed, you are now  
6 in formal remediation and you have 60 days from  
7 today to show significant improvement. Significant  
8 improvement means zero confirmed suspicious reports  
9 of lying, zero episodes of dereliction of duty,  
10 improvement in evaluations of core competencies, I  
11 don't know what those abbreviations mean, SBP, PBLI  
12 and PROF. And then number four states, zero reports  
13 of unwillingness to complete a task unless patient  
14 safety issues are raised.

15 Are you aware of whether Dr. Papin was  
16 ever given any chance to improve on any of these  
17 areas?

18 A. I am not, because on that same date  
19 Dr. Earl placed him on paid administrative leave  
20 and he did not return to campus following this  
21 date.

22 Q. Okay. There's some additional  
23 requirements it states. Number one would be  
24 development and submission of a personal study and  
25 action plan by January 17, 2017. Are you aware of

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1     **whether Dr. Papin submitted that plan as required**  
2     **by January 17?**

3           A.     I am not.

4           Q.     Was that ever provided to you in the  
5     documentation that Dr. Earl had?

6           A.     It was not.

7           Q.     Additional resources if desired, meet  
8     with the Senior Associate Dean for the GME. Who  
9     was the Senior Associate Dean for the GME at that  
10    time?

11          A.     I'm not familiar with that title. There  
12    is a person now who is a Vice Dean for the medical  
13    school, and I can only presume that is who he was  
14    referring to.

15          Q.     Who would that have been?

16          A.     Her name is Dr. Loretta Jackson  
17    Williams.

18          Q.     Did you ever recommend that Dr. Papin go  
19    see her?

20          A.     I did not.

21          Q.     What is the office of academic  
22    development?

23          A.     I'm not familiar with what Dr. Earl is  
24    referring. In the Department of Academic Affairs  
25    there is a psychologist who has responsibility for

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1 meeting with professional students who either need  
2 tutoring or who are having some kind of difficulty  
3 or deficiencies in other areas. That is not her  
4 title and I can only presume that is who Dr. Earl  
5 was referring to.

6 Q. Page 2 of this. It states many of these  
7 behaviors are serious threats to patient safety  
8 and therefore grounds for immediate action. If  
9 the improvement required above as determined by  
10 the program director are not met within 60 days or  
11 any event seriously threaten patient safety occurs  
12 after remediation period, then the following may  
13 be implemented, again, at the discretion of the  
14 program director: Referral to HR and the GME  
15 office for immediate termination for safety  
16 infractions deemed egregious by the PD.

17 Nonrenewal of contract, placed on a  
18 formal probation, requirement to repeat a year of  
19 training.

20 So then they both signed this on 1/10,  
21 and then one day later Dr. Earl and the GME  
22 office, Dr. Barr, you all received an e-mail  
23 stating that they believed that he was no longer  
24 rehabilitated -- he couldn't be rehabilitated,  
25 correct?

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1 A. Yes.

2 Q. Are you aware of any events that  
3 would -- any events that occurred between the 10th  
4 and the 11th that would have placed patients in  
5 jeopardy of serious harm?

6 A. I am not privy to what led to Dr. Earl's  
7 decision.

8 Q. Okay. Are you aware that basically they  
9 just went with option one here the next day and  
10 referred this case -- they did in fact refer this  
11 thing over to you the next day, correct?

12 A. Yes, it was referred the next day.

13 Q. Did you ever have any conversations with  
14 Dr. Earl or Dr. Barr regarding these other options  
15 that were in this plan such as nonrenewal of  
16 contract, placement on formal probation, or  
17 requirement to repeat a year of the training?

18 A. There were not. In the meeting that was  
19 subsequently held with Drs. Barr and Earl, the  
20 decision was made that they did not feel confident  
21 in Dr. Papin's ability or interaction to continue  
22 in the program.

23 Q. Are you aware of anything that would  
24 have required them to try to at least remediate  
25 Dr. Papin in these behaviors that they're stating

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1 he exhibited?

2 A. I am not.

3 Q. Next Exhibit 23. I am only asking you  
4 about the final page of this, it's the Academic  
5 Remediation and Protocol Checklist.

6 (Exhibit 23 marked for identification.)

7 A. I see it.

8 Q. This is an academic remediation protocol  
9 checklist that was referenced in the e-mails that  
10 we just went over from Ms. Bass. There are  
11 several things on here. Are you aware of whether  
12 any of these steps on this checklist would have  
13 taken place between Dr. Earl and Dr. Papin?

14 A. I am not.

15 Q. Are you aware of any of these  
16 guidelines, the guidelines going up to page 1, the  
17 Guidelines for Academic Remediation Office of  
18 Graduate Medical Education?

19 A. I am not familiar with that.

20 Q. Okay. All right. Next Exhibit 24.

21 (Exhibit 24 marked for identification.)

22 Q. Before you start reading, are you  
23 familiar with this UMMC Graduate Medical Education  
24 Evaluation Policy and Grievance Algorithm?

25 A. I am not.



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1 Q. Do you have any awareness of whether  
2 Dr. Earl and Dr. Barr followed the policies and  
3 procedures set forth in this?

4 A. I do not.

5 Q. Okay. Last one.

6 MR. WHITFIELD: I'm pretty sure that one  
7 was a repeat.

8 THE WITNESS: Uh-huh (affirmative).  
9 Yeah, we saw that one earlier.

10 MR. SCHMITZ: Okay. You know, I think I  
11 get different -- there's a couple of  
12 different years with the different versions  
13 so I think there's a little bit -- well,  
14 that's all right.

15 Okay, last one.

16 (Exhibit 25 marked for identification.)

17 Q. (By Mr. Schmitz) This is the Academic  
18 Remediation Protocol Checklist, seems to be filled  
19 out by Dr. Earl here?

20 A. Yes.

21 Q. All right. So on this checklist 1, 2,  
22 3, 4, 5, 6, 7, 8, there's 8 things on this  
23 checklist that they're supposed to go through; is  
24 that correct? You count the same as I'm counting?

25 A. Yes.

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1           Q.    And on here you see completion date and  
2   there's only 1, 2, 3, there's 3 things completed;  
3   is that correct?

4           A.    Yes.

5           Q.    So have you ever seen this document  
6   before?

7           A.    I have seen -- yes, this particular one,  
8   I've seen a copy of this.

9           Q.    This partially filled out document?

10          A.    Yes.

11          Q.    Okay. So earlier you testified that you  
12   had believed that Dr. Earl had done all his due  
13   diligence so you just relied on Dr. Earl for all  
14   the documents and all the things to have been  
15   complete sufficient enough for you to conclude  
16   that the termination of Dr. Joe Papin was  
17   warranted, correct?

18          A.    From the HR standpoint in comparison to  
19   the faculty staff handbook. This particular  
20   checklist would have to do with the academic  
21   component of which I had no involvement.

22          Q.    Right. But if you see only 3 out of the  
23   8 things on the academic component are checked off  
24   on a checklist, a UMMC checklist, wouldn't that  
25   raise some concern in the mind of someone else who

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1 is trying to review a termination decision?

2 A. Not from the standpoint of the employee  
3 component. And this checklist evidently was done  
4 on the same -- was begun on the same date that  
5 Dr. Earl and Dr. Papin had their meeting when he  
6 provided him with the letter that we recently  
7 reviewed.

8 Q. You see here where it says, submitted  
9 written personal study or corrective action plan,  
10 so it looks like Joseph Papin did that on 1/17 as  
11 was required by the -- I call it performance  
12 improvement plan, that we just reviewed?

13 A. I don't know if that was the date it was  
14 completed or if that the targeted date because I  
15 do not have familiarity with this checklist.

16 Q. Okay. You also were not provided the  
17 written personal study plan or corrective action  
18 plan that Joe Papin submitted to Dr. Earl on  
19 January 17?

20 A. I was not.

21 Q. Okay. All right. Well, thank you so  
22 much for your time today. Now, you can -- we're  
23 all finished here, you can now either read the  
24 transcript to correct any errors or you can waive.  
25 I guess you and Tommy can talk about that.

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1 MR. WHITFIELD: Read and sign.

2 MR. SCHMITZ: You're going to read and  
3 sign. All right. No worries.

4 So I guess that concludes today's  
5 deposition. Thank you so much, Ms. Whitlock,  
6 I appreciate your time today. Sorry I kept  
7 you for so long and I appreciate you both.  
8 Thank you.

9 COURT REPORTER: Mr. Whitfield, do you  
10 need a copy of the transcript?

11 MR. WHITFIELD: I do.

12 (Deposition concluded at 4:27 p.m.)

13 SIGNATURE/NOT WAIVED

14

15 ORIGINAL: GREGORY SCHMITZ, ESQ.

16 COPY: TOMMY WHITFIELD, ESQ.

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1 CERTIFICATE OF DEPONENT

2 DEPONENT: PAT WHITLOCK  
DATE: December 2, 2020  
3 CASE STYLE: JOSEPH PAPIN, MD vs. UNIVERSITY OF  
MISSISSIPPI MEDICAL CENTER, ET AL  
4 ORIGINAL TO: Gregory Schmitz, ESQ.

5 I, the above-named deponent in the  
deposition taken in the herein styled and numbered  
6 cause, certify that I have examined the deposition  
taken on the date above as to the correctness  
7 thereof, and that after reading said pages, I find  
them to contain a full and true transcript of the  
testimony as given by me.

8 Subject to those corrections listed  
below, if any, I find the transcript to be the  
9 correct testimony I gave at the aforestated time  
and place.

10	Page	Line	Comments
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____

18 This the \_\_\_\_ day of \_\_\_\_\_, 2020.

19 \_\_\_\_\_  
PAT WHITLOCK

20 State of Mississippi  
21 County of \_\_\_\_\_

22 Subscribed and sworn to before me, this the  
\_\_\_\_ day of \_\_\_\_\_, 2020.

23 My Commission Expires:

24 \_\_\_\_\_

25 Notary Public

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CERTIFICATE OF COURT REPORTER

I, Dawn Dillard, Court Reporter and  
Notary Public, in and for the State of  
Mississippi, hereby certify that the foregoing  
contains a true and correct transcript of the  
testimony of PAT WHITLOCK, as taken by me in the  
aforementioned matter at the time and place  
heretofore stated, as taken by stenotype and later  
reduced to typewritten form under my supervision  
by means of computer-aided transcription.

I further certify that under the  
authority vested in me by the State of Mississippi  
that the witness was placed under oath by me to  
truthfully answer all questions in the matter.

I further certify that, to the best of  
my knowledge, I am not in the employ of or related  
to any party in this matter and have no interest,  
monetary or otherwise, in the final outcome of  
this matter.

Witness my signature and seal this the  
1st day of January, 2021.

*Dawn Dillard*  
DAWN DILLARD, #1763  
CCR

My Commission Expires:  
March 2, 2021

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